



CONFIDENTIAL

APPENDIX 1-2

Right of Entry Lease Documents

Lessor:

C. Burton Pugh
Surface and Mineral Lease, dated 9/10/04

Lessor:

Roger M. Pugh
Mineral Lease, dated 9/11/08

Lessor:

Margaret and Mark Moyers
Mineral Lease, dated 6/26/08

Lessor:

Alecia Swapp Dame Trust
Surface and Mineral Lease, dated 4/29/05

File in:

☒ Confidential
☐ Shelf
☐ Expandable

Refer to Record No. 0144 Date 12/18/2008
In C 0250025 2008 Incoming
For additional information Shelf



CONFIDENTIAL

COAL MINING LEASE
between
ROGER M. PUGH
and
ALTON COAL DEVELOPMENT, LLC

Tracts
9-5-19-1
9-5-20-2
9-5-29-3
9-5-30-2

THIS COAL MINING LEASE, sometimes referred to as the "*Lease Agreement*," is effective as of the 11 day of September, 2008, and is by and among **Roger M. Pugh and his wife Kathleen R. Pugh**, Utah residents and heirs to the coal ownership interest of Verna H. Pugh, whose local mailing address is 140 South 100 West, Kanab, Utah 84741, hereafter referred to as "*Lessor*" and sometimes referred to as the Mineral Owner and **Alton Coal Development, LLC**, a Nevada Limited Liability Company, with a principal address of 6602 Ilex Circle, Naples, Florida 34109, hereafter referred to as "*Alton Coal*" or "*Lessee*."

WITNESSETH:

WHEREAS, Lessor owns that certain coal estate lying within certain tracts or parcels of real property lying and being located in Kane County, Utah, and as more specifically set forth in attached Exhibit 1 "Description of Tracts," which land and estate is hereafter described as the "*Leased Premises*" and sometimes referred to as the "*Subject Property*;" and

WHEREAS, Lessor has agreed to lease unto Alton Coal all of the coal contained within any and all seams of coal lying in or upon the Leased Premises, subject in all respects to each and every term, covenant, provision and condition set forth hereinbelow; and

NOW, THEREFORE, for and in consideration of Alton Coal's proper and timely payment of the described specified rents, royalties and the observation and performance of the terms and conditions contained herein, with reliance upon Alton Coal's part to pay, honor, observe and/or perform, the parties do hereby agree to the following terms and conditions of this Lease Agreement.

ARTICLE 1
GRANT OF LEASEHOLD

1.1 **Lease of Coal.** Lessor hereby leases, lets, grants and demises to Alton Coal, subject to and conditioned upon each and every term, covenant, provision and condition hereof, and for and during the Initial Term and any renewal or extension thereof:

(a) the right and privilege to explore for and mine and remove all of the Mineable and Merchantable Coal (as defined at Section 8.6 herein) lying in, beneath or upon the Leased Premises as the Leased Premises are identified within Exhibit 1 to this Lease Agreement, which Exhibit 1 is incorporated herein by this reference; and

(b) the right to conduct mining activities using all available methods for the extraction, mining and removal of coal, whether such techniques or equipment used for the extraction, mining and removal of the coal are now available or that may become available in the future, such as including but not limited to surface mining, pit, drag line, auger mining, high wall mining, thin seam miners or other methods designed to facilitate the mining or as required to conduct the Mining Operations (as defined at Section 8.5 herein); and

(c) the exclusive right and privilege to conduct the aforesaid mining upon and within the Leased Premises and to use and affect as much of or all of the Leased Premises as desired by Alton Coal, without limitation; and

(d) the right to market and sell said coal and dispose of coal and gas occurring in coal seams, beds or deposits when vented as a non-commercial substance, all in accordance with the provisions of this Lease Agreement.

1.2 **Transportation and Access Rights.** In addition to the rights set forth in § 1.1 above, including the right to explore for, excavate, mine, remove and sell the coal from the Leased Premises, Lessor hereby leases, lets and demises to Alton Coal:

(a) the unfettered right to transport all coal recovered from the Leased Premises across the surface or anywhere beneath the surface of the Leased Premises; and

(b) the exclusive right, easement and privilege to enter upon or within said Leased Premises and perform all work, services and related activities which may be necessary,

convenient or incidental to the Mining Operations, including the passage of people, vehicles, machinery, equipment, supplies or materials.

1.3 Inclusive Rights. The rights granted by Lessor are and include:

(a) the exclusive, dominant and superior right to exercise, utilize and enjoy any and all of the rights set out within this Lease Agreement including, but not limited to those mining rights set out within this Article 1, as well as all other rights, easements and privileges previously or subsequently leased, let, demised, granted and/or conveyed to or acquired by Lessor (and/or its affiliates, subsidiaries, agents, parent companies, successors or assigns) under, pursuant to, or in accordance with any surface rights agreements, leases, agreements, subleases, deeds or other instruments affecting the Leased Premises and/or any other premises appurtenant, vicinal or adjacent thereto, now owned, possessed or hereafter obtained by Lessor in relation to the Leased Premises; and

(b) the right to freely and fully utilize and exercise said mining rights, privileges and easements as may be necessary, convenient or incidental to Alton coal, its successors' or assigns' activities within any coal(s) reserved to it hereunder and/or any other coal(s) or on, in or upon the lands; and

(c) Lessor hereby covenants, agrees and stipulates that the rights granted to Alton Coal are superior and dominant, in all respects, to any rights, easements, privileges, estates and/or covenants retained by or belonging to Lessor.

ARTICLE 2

TERM

2.1 Initial Term. The initial term ("*Initial Term*") of this Lease Agreement shall be the period of ten (10) years from and including the date first above written.

2.2 Renewal Terms. Subject to the limitations of § 2.4 below, in the event that Alton Coal has not commenced Mining Operation upon the Leased Premises at the conclusion of the Initial Term, Alton Coal shall have the right, but not the obligation, to renew this Lease Agreement for a renewal term ("*Renewal Term*") of ten (10) years upon the same terms and conditions.

2.3 Continuation of Lease During Mining Operations. Notwithstanding any terms that may appear to be to the contrary, so long as Alton Coal is engaged in Mining Operations, the term of this Lease Agreement shall be automatically extended during and be coterminous with and throughout the period of Mining Operations until completed and Alton Coal shall remain possessed of the leasehold rights granted herein throughout the life of the Mining Operations and until such time as Alton Coal ceases the Mining Operations or surrenders the Leased Premises to Lessor.

2.4 Extension of Term. The Subject Property or Leased Premises are one of several properties located within a contiguous area of properties, including those that may be described at Exhibit 2 attached and entitled "*Common Mining Operations*" (as defined further at Section 8.4 herein). Alton Coal shall commence Mining Operations on at least one of said properties within the Initial Term of this Lease Agreement. Notwithstanding any terms that may appear to be to the contrary, so long as Alton Coal is engaged in Mining Operations on any of the lands described at Exhibit 2, the term of this Lease Agreement shall be automatically extended and be coterminous with the period of Common Mining Operations and Alton Coal shall remain possessed of the leasehold rights granted herein throughout the life of the Common Mining Operations until such time as Alton Coal ceases the Common Mining Operations or surrenders the Leased Premises to Lessor. In addition, regardless of any other limitations, this Lease Agreement shall be automatically extended by any delay in permitting, initiation or conducting of Mining Operations due to any protest or challenges (including but not limited to administrative hearings or court actions) to a mining permit that encompasses the Leased Premises or the contiguous areas that are part of the Common Mining Operations to be conducted by Alton Coal. The automatic extension shall be for the same period of time of protest or contest of the issuance or enforceability of the mining permit, or the right to mine that prevents mining pursuant to the mining permit submitted by Alton Coal to the Utah Division of Oil, Gas and Mining (DOGM) or that is regulated by the United States Department of Interior, Bureau of Land Management (BLM) or Office of Surface Mining (OSM), or any other regulatory body that will impact upon or affect the Mining Operations. In addition, unless this Lease Agreement is sooner cancelled or terminated pursuant to the terms of this Lease Agreement, the Initial Term or any Renewal Term of this Lease Agreement shall be extended until such time as the latest of:

(a) Alton Coal has had sufficient time to extract, mine and remove all "Mineable and Merchantable Coal" (as defined at Section 8.6 herein) from the Leased Premises; or

(b) Alton Coal has had sufficient time to extract, mine and remove all Mineable and Merchantable Coal from those areas encompassing any Common Mining Operations, including any federal Logical Mine Unit (LMU) (defined as a Federal logical mining unit pursuant to any plan of unitization for coal providing that operations or mining within the Common Mining Operation area or any portion of the Leased Premises shall be deemed operations or mining on the logical mining unit for Federal diligent development and continued operations requirements), which include the Leased Premises or are mined in conjunction with the Leased Premises; or

(c) Alton Coal has had sufficient time to extract, mine and remove all Mineable and Merchantable Coal from the lands where the Leased Premises are being mined by Alton Coal in conjunction with, or as part of the Mining Operations being conducted or in conjunction upon other lands.

2.5 Additional Extension of Term. The term of this Lease Agreement, as set forth within this Article 2, whether the Initial Term or any extension, renewal or continuation, shall be further extended for that additional period of time following the conclusion of Mining Operations, as necessary, for the purpose of and as necessary or incidental to:

(a) allow for the completion of all reclamation activity by Alton Coal upon the Leased Premises or upon those areas encompassing any Logical Mine Unit (LMU) including the Leased Premises, or where the lands of the Leased Premises are being mined by Alton Coal in conjunction with, or as part of the Common Mining Operations being conducted upon other lands, and

(b) allow Alton Coal to obtain release of all reclamation bonds on any permits covering, or including the Leased Premises. Alton Coal shall have all the rights as set out within this Lease Agreement in order to satisfactorily comply with all reclamation requirements, orders and regulations regarding the applicable permit(s) and Mining Operations.

ARTICLE 3

EXECUTION AND OTHER ROYALTIES

3.1 **Execution Royalty.** Alton Coal, for and in consideration of the execution and delivery of this Lease Agreement, the receipt and sufficiency of which is hereby acknowledged, pays unto Lessor the sum of four thousand dollars (\$4,000) as a single, lump sum execution fee, which is not recoupable for any purpose(s) hereunder and which the Lessor acknowledges the receipt and sufficiency of this execution fee.

3.2 **Advance Minimum Royalty.** Alton Coal covenants and agrees to pay unto Lessor the sum of Five Dollars (\$5.00) per acre (as described in Exhibit 1) as an annual Advance Minimum Royalty hereunder, irrespective of any tonnage(s) or amount(s) of coal mined and removed during any Term or Month(s) or during any other period(s). The Advance Minimum Royalty will be payable each year on the anniversary date of this Lease Agreement. The first Advance Minimum Royalty shall be made one (1) year after the effective date of the Lease Agreement. The Advance Minimum Royalty shall be credited against the production royalties set forth in Article 4 herein actually paid during the remainder of the ensuing twelve (12) month period, if any, but for no other period. The Advance Minimum Royalty payments shall be subject to the terms and provisions of abandonment of areas encompassed within the Leased Premises.

3.3 **Other Damages.** The royalties and compensation set forth in paragraphs 3.01, and 3.02 of this Agreement are acknowledged by Lessor to be sufficient compensation for and to fully satisfy all reasonable and customary damages and losses caused and created by the scope of surface Mining Operations contemplated by this Lease Agreement, including the permanent loss of subsurface, subjacent and adjacent support.

3.4 **Abatement of Royalties.** In that the reclamation of the Leased Premises is an additional benefit to Lessor, Alton Coal shall not be required to pay any Advance Minimum Royalties or any other additional royalties of any kind, fees or ground rent during the time that only reclamation activities are being conducted.

ARTICLE 4

PRODUCTION ROYALTIES

4.1 **Mineral and Surface Use Royalties.** Alton Coal covenants and agrees to pay the following royalties, based upon the production of coal from the Leased Premises, for all coal mined, removed and sold from the Leased Premises:

(a) a "Mineral Royalty" equal to eight percent (8%) of the Gross Selling Price per ton for each and every ton of two thousand (2,000) pounds of coal which is mined and sold from the Leased Premises, payable to the Mineral Owner; and

(b) a "Surface Use Royalty" equal to five percent (5%) of the Gross Selling Price per ton for each and every one of two thousand (2,000) pounds of coal which is mined and sold from the Leased Premises, payable to the Surface Owner or jointly to the Surface Owners.

4.2 **Gross Selling Price.** For the purposes of calculating the tonnage royalty provided for herein, whether Mineral Royalty or Surface Use Royalty, for all coal which is mined, removed and sold hereunder, the "*Gross Selling Price*" of coal shall be that price actually charged to the "*Arm's-length Purchaser*" of said coal Free on Board (F.O.B.) mine site at Alton, Utah. An Arm's Length Purchaser is any purchaser in which Alton Coal does not have an economic interest, or with which Alton Coal may be otherwise "affiliated," in any respect. In the case of any coal mined from the Leased Premises pursuant to this Lease Agreement, not sold at arm's-length, or stored [for longer than sixty (60) total days] and/or consumed on or off the Leased Premises without any arm's length sale by Alton Coal, the gross selling price of said coal for purposes of computing the aforesaid tonnage royalty shall be presumed to be equal to average gross realization for coal being received at the coal tippie used by Alton or that closest to the mine at the time of Alton Coal's removal of the subject coal from the Leased Premises, or if stored or consumed on or off the Leased Premises, at the time of placement in storage or consumption, as applicable. In the event(s), and as often such event(s) may occur, of any sale or transfer of coal mined from the Leased Premises pursuant to this Lease Agreement not at arm's-length and the subsequent resale of said coal by such purchaser or transferee at arm's-length, the aforesaid tonnage royalty shall be based on the subsequent resale at arm's-length by such purchaser or transferee. For the purposes hereof, "affiliated" shall be construed as any person(s) or party(ies) related to, associated with, or otherwise connected with (in any manner(s),

financially, and/or familiarly) to Alton Coal and/or its agents, employees, families, officers, directors, shareholders, affiliates, subsidiaries, heirs, successors, assigns, associates, of either of them. Provided, that Lessor shall have the right and option, at any time or from time to time, to elect to receive the percentage royalty based upon the highest Gross Selling Price defined hereunder, irrespective of the actual gross selling price of coal(s).

4.3 Expenses and Commissions. Notwithstanding any provisions that may appear to the contrary, Alton Coal shall be entitled to deduct from the amount of Gross Selling Price as used for computation of the royalties due under § 4.01 the following items:

- (a) The costs of processing, washing, cleaning and sizing the coal; and
- (b) The costs incurred in the storage, transfer, shipment and transportation of all coal mined and sold; and
- (c) The costs incurred in the de-icing or spraying of any coal in rail cars or barges; and
- (d) The commissions paid to independent brokers or coal sales agents as expenses and commissions paid by Alton Coal from the sale of the coal mined upon the Leased Premises, to the extent that Alton Coal must pay same or incur that expense or commission as apart of the Gross Selling Price of the coal; and
- (e) To the extent that the purchaser of the coal incurs all expenses without deduction to the amount paid Alton Coal, then there will be no deduction of same from the Gross Selling Price of the coal.

4.4 Payment Dates. Notwithstanding anything contained herein to the contrary, all tonnage royalty payments due Lessor hereunder shall be paid by Alton Coal on or before the Twentieth (20th) day of the month, following the month in which such coal is mined, sold and removed from the Leased Premises.

4.5 Partial Ownership Rights. Notwithstanding anything contained herein that may appear to be to the contrary, in the event that the Lessor owns only a partial interest in either the coal (mineral) or the surface, then the Advance Minimum Royalty (\$3.02); and Production

Royalties (\$4.01) shall be paid proportionately to all respective owners of either the coal (mineral) or the surface, or to the rightful owners of these rights, based upon their interest of ownership and the Lessor shall be paid only that proportionate amount equal to their rights of ownership.

ARTICLE 5

TONNAGE DETERMINATION

5.1 **Tonnage Weights.** The quantity of coal mined from the Leased Premises pursuant to this Lease Agreement shall be determined by the end user or Arm's Length Purchaser's weight determination for which Alton Coal is paid. Volumetric measurement may be used if truck scales or tippie weights are not available. The volumetric measurements made by Alton Coal, and/or its successors, or assigns, shall be final and binding, provided, in the event Lessor disputes the weights in writing within ten (10) days of receipt of Alton Coal's volumetric tonnage estimate and/or disagrees with said volumetric measurements, Lessor may submit the same to arbitration, pursuant to and in accordance with the terms set out below.

5.2 **Tonnage Reports.** Alton Coal covenants and agrees to supply Lessor on or before the twentieth (20th) day of each month a true and accurate monthly tonnage account and statements of all coal mined and removed from the Leased Premises during the preceding month. Such monthly tonnage statement shall specify:

- (a) the tonnage of coal mined pursuant to this Lease Agreement;
- (b) the Gross Selling Price received by Alton Coal for coal mined pursuant to this Agreement;
- (c) the tonnage royalty due on coal sold; and
- (d) all other reasonably available information regarding the coal mined and the deductible expenses associated with the mining of the coal and in a form which Lessor may request from time to time.

5.3 **Right of Inspection.** Lessor, at Lessor's expense, shall have the right to inspect the records of Alton Coal regarding the mining and sale of the coal from the Leased Premises and the Mining Operations.

(a) the inspection of records may be had if after giving Alton Coal no less than two (2) business days advance notice to inspect the records or the Mining Operations during reasonable business times and in a reasonable manner so as not to burden Alton Coal, nor interfere with the day by day operations of Alton Coal, nor to cause Alton Coal undue expense; and

(b) pursuant to all applicable laws and regulations, Lessor is authorized, and Alton Coal hereby grants the necessary ingress and egress for Lessor and/or its qualified agents or contractors (who are competent and certified to do so), from time to time, to make volumetric measurements of the Leased Premises for the purpose of determining the actual amount of coal mined and removed therefrom on which royalties are payable to Lessor pursuant to Article 4; and

(c) the inspections of the site shall be at the sole risk to Lessor and Lessor agrees to indemnify and hold Alton Coal harmless from any claims of injury or damage (including but not limited to its attorneys fees and costs) incurred by any agent or contractor of Lessor made against Alton Coal, that occur or arise out of any visit to or inspection of the Leased Premises; and

(d) Lessor shall give to Alton Coal reasonable notice of Lessor's intent to visit or inspect and the inspections shall be conducted only during those time as authorized by Alton Coal, with the designation of the time by Alton Coal to be reasonable.

5.4 Right to Commingle Coal. Alton Coal shall have the right to co-mingle coal mined from the Leased Premises with coal mined from other locations and Alton Coal shall not be required to pay any royalties to Lessor on the amount of coal co-mingled from other properties. Alton Coal shall keep accurate records of the amount of coal that is co-mingled with coal mined from the Leased Premises to deduct that amount from coal stored or sold by Alton Coal from the Leased Premises.

ARTICLE 6

RIGHTS OF USE

6.1 Grant of Rights. Lessor, irrevocably binding itself and its heirs, successors, assigns, and beneficiaries, does hereby and herewith grant and convey unto Alton Coal, its

successors and assigns, the exclusive right, easement, and privilege to exercise, utilize, and/or otherwise enjoy, at any time and from time to time, during the continuance hereof, all of its rights, titles, estates, interests, easements, rights-of-way, leases, surface rights agreements, and/or other agreements in, to, and/or otherwise pertaining to any estates, surface or otherwise, which are located within the Leased Premises during any term of this Lease Agreement.

6.2 Improvements Upon the Leased Premises. Alton Coal shall have the right to construct in, on or upon the Leased Premises and make sole and exclusive use of such improvements as may be necessary or incidental to the exploration for and the extraction, removal, storage, treatment, washing, processing, transportation or disposition of said coal. The rights to construct and use said improvements shall include but not be limited to buildings, structures, holding tanks, roadways, entry ways, fans, portals or outlets, parking lots, power lines, transformer stations, poles, beltways, tram ways, water lines, rail lines, roadways, dams, ponds, basins, hollow fills or any other improvements. Alton Coal shall not be required to pay any additional ground rent or royalty arising from or related to the use of any improvements upon the Leased Premises. All improvements shall belong to and remain the property of Alton Coal.

6.3 Subsurface, Subjacent and Adjacent Support. Lessor, irrevocably binding itself and its heirs, successors, assigns, and beneficiaries, does, to the extent it may lawfully do so, hereby releases, relinquishes, waives, transfers, and otherwise sets-over unto Alton Coal, its successors and assigns forever, any and all statutory or equitable rights or claims to vertical, lateral, subjacent and adjacent support of the Leased Premises and, henceforth, Lessor hereby irrevocably binding itself and the aforespecified associated person(s) and party(ies) does hereby release, relinquish, waive, forego, transfer, and otherwise set over unto Alton Coal, its successors and assigns forever, any and all claims, demands, disputes, causes of action, choses in action, rights, judgments, suits, and/or otherwise liabilities of any kind or nature which Lessor and/or any of the aforespecified associated person(s) or party(ies) may have by reason of any subsidence, failure, slumps, and/or slides occurring on or to the Leased Premises. It is specifically acknowledged and agreed by Lessor that Alton Coal, and/or Alton Coal's agent(s) or other mining companies or operators, may conduct underground Mining Operations which will include full pillar extraction, and or long-wall operations which may damage or affect the surface and/or limit the use of the surface either during or following mining, including any post mining

use that may be envisioned by Lessor, including but not limited to the erection or use of any structure thereupon and that no additional compensation for such damage shall be required.

6.4 **Transport and Stockpiling of Coal.** Alton Coal shall have the right, by any means possible, to transport, hoist, and move coal across, through or upon the surface of the Leased Premises mined by Alton Coal from the Leased Premises, or from other properties owned, controlled or mined by Alton Coal.

6.5 **Non-Interference.** Lessor, irrevocably binding itself and its heirs, successors, assigns, and beneficiaries and each of them forever warrant that they shall not interfere with the Mining Operations of Alton Coal nor impede any of the Mining Operations conducted by Alton Coal.

ARTICLE 7

MODE OF DELIVERY/REPORTING

7.1 **Payments, Reports and Maps.** All tonnage royalty payments, tonnage reports, wheelage reports, maps, and all other reports, plans, and payments due Lessor pursuant to this Lease Agreement shall be mailed, without demand, as and when due to Lessor at its mailing address, or to such other mailing address(es) which Lessor may from time to time so designate in writing unto Alton Coal.

ARTICLE 8

OPERATIONS

8.1 **No Implied Obligations of Lessee.** It is understood and agreed that the mining of coal from the Leased Premises is highly speculative because of, among other things, the location of the Leased Premises and foreseeable and unforeseeable geologic circumstances that exist on the Leased Premises. Lessee shall be under no obligation, express or implied, to explore, develop, mine, remine or otherwise rework the Leased Premises, for coal or any other mineral or substance which may be covered hereby, it being expressly agreed that the good faith judgment of the Lessee in carrying out the purposes of this Lease Agreement shall be conclusive. Suspension of mining operations by the Lessee shall be without prejudice to its rights to resume operations. Lessor specifically acknowledges and agrees that this Lease Agreement shall not be forfeited for any failure to prosecute mining operations on the Leased Premises, nor shall any forfeiture be claimed or enforced for the breach of any implied covenant and the rights herein

granted and conveyed shall not be canceled or revert to Lessor or its assigns so long as all payments herein stipulated to be paid by Lessee are paid to Lessor. The fact that Lessee may fulfill some or all of its obligations under a coal sales contract with production from the Leased Premises is not intended to nor shall it give Lessor any rights in or to said coal sales contract. Lessee shall not be required to mine, remove or pay any production royalty on poor quality coal or waste material, unless Lessee actually sells the same. Any amounts received by Lessee for a buyout, buydown or amendment to a coal sales contract shall not be deemed gross proceeds subject to royalty used to determine Gross Selling Price hereunder.

8.2 Compliance With Laws. Alton Coal covenants and agrees to conduct its Mining Operations and all of its other activities upon and within the Leased Premises at all times in material compliance with all applicable statutes, regulations, rules, orders, and other governmental mandates which are currently in force or may be hereafter enacted by the United States of America, State of Utah, and/or other applicable governmental authority(ies). Alton Coal covenants and agrees not to utilize or participate in any utilization of the Leased Premises, in whole or in part, for any use(s) not specifically contemplated, hereunder.

8.3 Permits. Alton Coal covenants and agrees to secure, maintain, and keep in full force and effect, at its sole cost and expense all:

(a) surface disturbance, mining, and reclamation permits from the State of Utah, Division of Oil, Gas and Mining (DOGM) [and/or its governmental successor(s)] with respect to mining and removal of coal from the Leased Premises as contemplated, hereunder; and,

(b) all mine licenses from the United States of America Mine Safety and Health Administration (MSHA) and/or the State of Utah; and

(c) any and all other necessary or incidental mine licenses or permits required to mine and remove coal hereunder in compliance with all of the laws and regulations of the State of Utah and/or United States of America.

8.4 Other Mining Operations and Definition of Common Mining Operations.
The coal contained in or upon the Leased Premises may be part of a seam or deposit of coal

which extends through other lands onto or becomes part of the Leased Premises. Alton Coal may desire or find it advantageous to conduct Mining Operations upon the Leased Premises in conjunction with Mining Operations being conducted by Alton Coal upon other lands. Alton Coal shall have the absolute right to conduct Mining Operations upon the Leased Premises in conjunction with, part of, or associated with other Mining Operations being conducted by Alton Coal, even if those operations are not located upon the Leased Premises which are to be considered as "*Common Mining Operations*." As part of the Common Mining Operations, Alton Coal shall have the right to include the Leased Premises as part of a federal Logical Mining Unit (LMU), a common mine plan, or part of a permit encompassing other lands, where the lands of the Leased Premises are being mined by Alton Coal in conjunction with or as part of the Mining Operations being conducted upon other lands, whether or not immediately adjacent to the Leased Premises, so long as conducted as part of a common mining plan or Mining Operation.

8.5 Definition of Mining Operations. For all purposes under this Lease Agreement, the term "*Mining Operations*" shall be broadly construed to include but not necessarily be limited to the actual removal of coal by any means or method specified in this Lease Agreement, including but not limited to surface mining; the working of or preparation of any face, bench, pit or site for the mining or removal of coal; placement of or advancement of entryways, shafts, portals, ventilation, conveyors, or long walls; core drilling or active exploration for coal; operations conducted in conjunction with the washing, sizing, processing, storage, or transportation of coal; and or the reclamation of a previously mined site.

8.6 Definition of Mineable and Merchantable Coal. For all purposes under this Lease Agreement, the term "*Mineable and Merchantable Coal*" shall mean coal that can be mined at a profit by Alton Coal, when reached in the ordinary course of mining, using modern and efficient mining methods, practices and equipment.

ARTICLE 9

RECLAMATION AND POST MINING LAND USE

9.1 Reclamation Standards. Alton Coal shall reclaim all sites disturbed by Alton Coal and satisfy all reclamation required under and pursuant to any Surface Disturbance, Mining and/or Reclamation Permits with respect to the Leased Premises and/or otherwise arising in

connection with, as a consequence of, or in association with the mining and removal of coal as contemplated hereunder in accordance with all permit requirements and state and federal laws. As part of the reclamation of the Leased Premises, Alton Coal may establish the standards for post mining land use to be pasture, grass lands, or grazing land, or to the extent allowed to be consistent with the standards established by the applicable regulations.

9.2 **Exclusive Control.** Lessor shall not itself, nor shall any of its contractors, agents, employees, guests, invitees or assigns interfere with or in any way hinder the reclamation activities of Alton Coal nor have access to any areas being reclaimed without the express permission of Alton Coal, which permission Alton Coal may in its sole discretion deny if the access to the area may hinder or interfere with the reclamation activities. Lessor shall not itself, nor shall any of its contractors, agents, employees, guests, invitees or assigns interfere with or in any way hinder the reclamation activities of Alton Coal. Lessor shall not itself, nor shall Lessor allow any contractors, agents, employees, guests, invitees or assigns to have access to any areas being reclaimed without the express permission of Alton Coal, which permission Alton Coal may in its sole discretion deny if the access to the area may hinder or interfere with the reclamation activities. Alton Coal shall have sole and exclusive access, use and control to and of all areas that are being reclaimed until the latest of:

- (a) such time as all reclamation activity being conducted by Alton Coal is completed; and
- (b) Alton Coal has received a full release of all reclamation bonds on any permits covering, or including the Leased Premises.

9.3 **Enforcement.** Alton Coal shall have the right to seek injunctive relief before a court of appropriate jurisdiction to enforce its rights to have access to the Leased Premises, to conduct all reclamation activities and to deny access to all others to the areas being reclaimed.

9.4 **Indemnification.** Lessor shall indemnify and hold Alton Coal harmless from any losses, claims, damages, expenses, fines, fees, levies or other expenses, including attorneys' fees and court costs, incurred by Alton Coal or suffered by Alton Coal as result of any interference or hindrance of the reclamation activities of Alton Coal by Lessor, its contractors, agents, employees, guests, invitees or assigns.

ARTICLE 10

RECORDS

10.1 **Record Keeping.** Alton Coal shall keep a true and accurate record of the amount of all coal mined, removed and sold from the Leased Premises and the Gross Selling Price(s) received for coal mined, removed and sold from the Leased Premises pursuant to this Lease Agreement. All such records shall be open to inspection by Lessor's agents at reasonable times as set out above at Section 5.3. The provisions of this Paragraph (10.1) shall survive the expiration, cancellation, or sooner termination of this Lease Agreement. All such records of Lessee kept in the ordinary course of business and all payments made in accordance therewith, shall be presumed to be accurate after a period of three (3) years.

10.2 **Maps.** Alton Coal shall furnish to Lessor accurate mining maps of Alton Coal's Mining Operations upon or within the Leased Premises set out in Exhibit 1 within thirty (30) days of receipt of Lessor's written request. Such mining maps shall be prepared by a registered professional mining engineer; shall be on scales of one inch (1") equals to one hundred feet (100') and one inch (1") equals to four hundred feet (400'); and, shall depict seam elevations, coal sections every one hundred feet (100') of pit length.

ARTICLE 11

TAXES

11.1 **Payment of Taxes by Alton Coal.** Alton Coal covenants and agrees to pay all taxes, fees, assessments, levies, and all other governmental charges which may be assessed, charged, or levied upon the improvements erected upon or in the Leased Premises by Alton Coal and any and all of the personal property(ies) of Alton Coal; the coal severed, mined, and produced by Alton Coal pursuant to this Lease Agreement; Alton Coal's rights, titles, or interests in this Lease Agreement; or the leasehold estate hereby created, and which may be assessed, charged, and/or levied in connection with Alton Coal's mining operation; and other activities conducted pursuant to or in connection with this Lease Agreement, including, without limitation, mineral severance taxes, unmined mineral taxes, gross receipts taxes, employment taxes, black lung taxes, and abandoned mine land taxes and fees (AML) as, when, to the extent(s), and in the amount(s) the same become due and payable, without demand by Lessor.

11.2 Payment of Taxes by Lessor. Except for improvements erected or used by Alton Coal, Lessor covenants and agrees to pay all taxes, fees, assessments, levies, and all other governmental charges which may be assessed, charged, or levied upon the improvements erected thereupon and/or therein of the Leased Premises, and any and all of the personal property(ies) of Lessor as well as the ad valorem taxes upon the Leased Premises, when, to the extent(s), and in the amount(s) the same become due and payable, without demand by Alton Coal. Lessor shall not allow or permit any portion of the leasehold estate to be levied upon, forfeited or sold on account of any unpaid tax, assessment or charge.

11.3 Reimbursement. In the event(s) any such taxes, assessments, levies, fees, and/or other governmental charges, in whole or in part set forth in §11.02 should be paid by Alton Coal, then Lessor shall repay to Alton Coal such amount(s), in full, within ten (10) days of Alton Coal sending a notice of a reimbursement request for the same. Lessor shall prepare and submit reports and/or payments on any unmined mineral taxes applicable to the Leased Premises, however, Alton Coal shall promptly reimburse Lessor for all unmined mineral taxes paid by Lessor to the extent such taxes are applicable to the Leased Premises. In the event(s) any such taxes, assessments, levies, fees, and/or other governmental charges, in whole or in part set forth in §11.02 should be paid by Alton Coal, then Alton Coal shall have the right to offset or take as a credit against royalties any amount paid for or behalf of Lessor.

11.4 Protest and Roll Backs. Alton Coal shall have the absolute right to protest or contest any tax, assessment or levy that may be in the name of Lessor but which is a tax, assessment or levy to be paid by Alton Coal. In the event that the Leased Premises are taxed as agricultural property ("greenbelt") and if that classification or characterization of said land is changed due to the Mining Operations of Alton Coal, Alton Coal shall pay the increased amounts due to the roll back or new assessment.

ARTICLE 12

LIENS/REMOVAL OF EQUIPMENT AND IMPROVEMENTS

12.1 Liens. Alton Coal covenants and agrees to prevent any lien, assessment, attachment, and/or any other encumbrance, of whatsoever kind or nature, arising from the actions of Alton Coal, or its agents or contractors, from being filed against or encumbering Lessor's title in and to the Leased Premises.

12.2 Payment by Lessor. In the event, and as often as such event may occur, any third party(ies) perfects a legal right to encumber said Leased Premises, in whole or in part, as a result of Alton Coal's failure, in whole or in part, to pay such parties as herein provided, or as Alton Coal may be otherwise legally obligated, Lessor, at its sole option and in addition to its other rights and remedies hereunder including, but not limited to the remedies set out within this Lease Agreement, does and shall have the right to pay, in whole or in part, and settle with such parties directly. Provided, however, all such direct payments by Lessor shall be forthwith reimbursed by Alton Coal to Lessor. This paragraph and/or the payment of such direct payment sums, in whole or in part, by Lessor is not and shall not be construed as a waiver, alteration, or modification of any of the Alton Coal's obligations assumed by it hereunder not of Lessor's rights hereunder; nor as a covenant by Lessor to perform the same.

12.3 Payment When Due. All rentals, royalties, taxes, levies, fees, and other payments herein agreed to be paid by Alton Coal shall be paid as and when due.

12.4 Removal of Equipment and Improvements. Upon the expiration, cancellation, or sooner termination, from whatever reason, of this Lease Agreement, Alton Coal shall have the right within one hundred eighty (180) days, thereafter, to remove all of its (and, if applicable, caused removed its contractor's) personal property, machinery, equipment, improvements, and other apparatus from the Leased Premises:

(a) provided, however, notwithstanding the foregoing, Alton Coal may maintain on site any equipment, materials, supplies or improvements necessary for the continued reclamation of the Leased Premises.

12.5 Removal of Trash and Rubbish. Upon the expiration, cancellation, or sooner termination from whatever reason of this Lease Agreement, or upon the cessation of Mining Operations by Alton Coal for any cause whatsoever, Alton Coal shall leave the Leased Premises, free from any accumulation of rubbish or trash.

ARTICLE 13

INDEMNIFICATION

13.1 Indemnification by Alton Coal. Alton Coal agrees to defend, indemnify and hold Lessor harmless from and/or against any and all liabilities arising, directly, indirectly, out of

and/or as a consequence of Alton Coal's use, occupation, utilization, and/or Mining Operations and/or any other related work, services, or other activities conducted pursuant to or in connection with this Lease Agreement, together with all costs and expenses including, but not limited to, attorney's fees and other litigation costs that may be incurred by Lessor in connection therewith, so long as the liabilities were caused by the negligence or fault of Alton Coal.

13.2 Indemnification by Lessor. Lessor agrees to defend, indemnify hold Alton Coal harmless from and/or against any and all liabilities arising, directly, indirectly, out of and/or as a consequence of Lessor's actions or other activities conducted pursuant to or in connection with the Leased Premises, together with all costs and expenses including, but not limited to, attorney's fees and other litigation costs that may be incurred by Alton Coal in connection therewith, so long as the liabilities were caused by the negligence or fault of Lessor.

13.3 Survival. The provisions of indemnification as set out within this Article 13 shall survive the expiration or termination of this Lease Agreement.

ARTICLE 14

INSURANCE

14.1 Coverage by Alton Coal. Alton Coal covenants and agrees to obtain, keep, and maintain, in full force and effect, at all times, during the continuance of this Lease Agreement a comprehensive general liability insurance covering Alton Coal's Mining Operations and other activities conducted pursuant to or in connection with this Lease Agreement with the greater of those minimum liability coverage limits required by law, or liability coverage limits of no less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for the death and/or injury of person(s) and/or damage to any real or personal property(ies).

14.2 Additional Coverages. In addition to the previously specified liability insurance, Alton Coal covenants and agrees to obtain, keep, and maintain in full force and effect, at all times, coverage concerning Workmen's Compensation and Black Lung Claims, Unemployment Compensation Insurance, occupational disease insurance, employer liability insurance, and all insurance coverages concerning Alton Coal's operations and other activities conducted pursuant to this Lease Agreement now and/or hereafter required by the United States of America, State of Utah, and/or all other applicable governmental authorities.

ARTICLE 15

ASSIGNMENT

15.1 **Assignment by Alton Coal.** This Lease Agreement, the leasehold estate created hereby, and any rights, titles, interests, easements, and/or privileges leased hereby, may be assigned, mortgaged, conveyed, subleased, licensed, encumbered, contracted, permitted, or otherwise transferred or set over by Alton Coal, in whole or in part, without the express, written consent of Lessor first had and obtained as necessary for the full and complete removal of all Mineable and Merchantable Coal.

15.2 **Obligation of Assignee.** In the event of an assignment, mortgaging, conveyance, sublease, license, encumbrance, contract, or otherwise transfer of this Lease Agreement, the assignee shall be obliged to assume and fulfill all obligations of Alton Coal as set out within this Lease Agreement.

ARTICLE 16

WARRANTY OF TITLE

16.1 **Warranty of Ownership.** Lessor hereby warrants, covenants and represents that Lessor is the fee simple title holder and sole owner of all rights, titles, estates, and/or interests in, to, pursuant to, or held in accordance with the Leased Premises (as described in the attached schedule) and as conveyed to Alton Coal including all coal and the rights to mine and sell said coal from the Leased Premises.

16.2 **No Defects.** Lessor hereby warrants and represents that the title granted by Lessor to the Leased Premises is free and clear of any lien or encumbrance of any kind and that Lessor has the unrestricted right to enter into this Lease Agreement with Alton Coal, regarding the Leased Premises and that there are no outstanding contractual arrangements or obligations, without limitation, that will diminish, restrict or inhibit the rights granted to Alton Coal.

16.3 **Consideration for Warranty.** The Royalties payable to Lessor under the terms of this Lease Agreement are based upon and in consideration for the conveyance of the full, unrestricted and unencumbered rights granted to Alton Coal and the right of Alton Coal to mine and sell the coal from the Leased Premises without the requirement to obtain any further rights regarding the Leased Premises and the operations to be conducted thereon or to pay any additional fees, royalties or rents except as set out within this Lease Agreement to Lessor.

16.4 **Defect in Title.** In the event, the Lessor's title in and to the Leased Premises, is defeated, in whole or in part, by the holder of superior title in and to the same, Lessor shall repay Alton Coal any tonnage royalty(ies) paid on coal(s) mined from the area then in question, without interest to the extent and in the same proportion that the interest of Lessor is defective. Thereafter Alton Coal's obligation and covenant to pay all monies due Lessor, hereunder, shall instead be payable to the proper owner of the interest in proportion to the interest or rights held and the amount paid to Lessor shall be reduced by the amounts paid to the proper owner of the interest. Alton Coal may escrow all amounts subject to protect or contest until such time as the proper interest and proper owner is determined. The unpaid royalty shall there after be paid without interest.

16.5 **Costs of Defense.** Lessor shall reimburse Alton Coal for any and all expense(s), cost(s), and attorneys' fees incurred in the defense of any civil actions, arising from any title claim or a claim to ownership of the coal or the right to remove, sell or transport the coal, irrespective of the outcome.

16.6 **Curative Measures by Alton Coal.** Alton Coal may initiate and take whatever steps are necessary to secure or obtain whatever disputed rights or interests that are necessary to provide clear title to Alton Coal, or take whatever curative steps are necessary to remove the encumbrance or lien which restricts its rights granted hereunder. Alton Coal may thereafter seek reimbursement from Lessor for all of its costs and expenses incurred, or retain the interest obtained and reduce the amount of royalties paid to Lessor by the same proportionate amount.

ARTICLE 17

TERMINATION BY ALTON COAL

17.1 **Right of Termination-Alton Coal.** Alton Coal may terminate this Lease Agreement in its entirety at any time and from time to time during any term or extension of term of this Lease Agreement. In lieu of terminating the Lease Agreement in its entirety, Alton Coal may abandon, surrender or relinquish any portion of the Leased Premises that are no longer needed by Alton Coal for its operations.

17.2 **Notice to Abandon.** Alton Coal shall give Lessor at least thirty (30) days written notice of Alton Coal's decision that it intends to abandon, surrender or relinquish any portion or

any area within the Leased Premises and that Alton Coal intends not to mine coal from the same area, or that Alton Coal intends to terminate this Lease Agreement in its entirety.

17.3 Right of Continuation. In the event that Alton Coal gives notice of its intent to abandon, surrender or relinquish any portion of the Leased Premises, or terminate this Lease Agreement in its entirety, Lessor shall have thirty (30) days following the notice by Alton Coal, to provide to Alton Coal notice in writing that the Lessor desires to continue the Mining Operations if the area is in fact mineable and that Lessor intends to succeed to Alton Coal for the entire permitted area, or for the areas sought to be affected by the notice to abandon, surrender or relinquish if less than the entire permitted area, and that Lessor will provide for the continued mining and reclamation of those areas. In the event that Lessor provides the written notification to Alton Coal, then Alton Coal shall not reclaim the site or abandon the area, subject to compliance with all laws, regulations and permit requirements, at the sole cost to Lessor until such time as Lessor fully transfers the mining permit and operations to Lessor.

17.4 Effect of Surrender. Upon any surrender of this Lease Agreement by Alton Coal, Alton Coal covenants and agrees to duly execute and deliver to Lessor, upon request, a Release Agreement, in recordable form, releasing all rights, titles, estates, and interests of Alton Coal in and to any of the Leased Premises. Alton Coal and its respective heirs, successors, assigns, officers, directors, agents, shareholders, and each of them, forever will thereafter be released from any further liability, obligation, covenant or condition to perform under the terms of this Lease Agreement.

ARTICLE 18

TERMINATION FOR DEFAULT

18.1 Terms of Default. In the event that Alton Coal fails, at any time or from time to time, to pay all sums due and payable unto Lessor, hereunder, as, when, and in the applicable amount when due and payable, or if Alton Coal fails to perform any other obligation under the terms of this Lease Agreement, then Lessor may consider Alton Coal as in default under the terms of this Lease Agreement.

18.2 Notice of Default. In the event that Lessor considers Alton Coal as in default, as set out within Section 18.1, then Lessor shall provide Alton Coal written notice, delivered to the address set out herein, of any such condition of default. The notice of default shall set forth each

term, condition or provision constituting default and the specific provision of this Lease Agreement as it applies to the condition of default.

18.3 Cure Period. Alton Coal shall have sixty (60) days from and after the date of service of any notice of default in accordance with the provisions of Section 18.2 within which to cure and remedy said default. In the event Alton Coal fails to fully cure and remedy said default, Lessor shall and does have the right and option to terminate this Lease Agreement by declaring Alton Coal in breach of the Lease Agreement. Lessor shall exercise its right of termination hereunder by sending written "Notice of Termination" to Alton Coal. five (5) days following delivery of the written "Notice of Termination" to Alton Coal, without requirement of additional notice or action, Lessor may repossess and retake the Leased Premises and all improvements and appurtenances thereunto belonging, either by act of re-entry and/or other legal action(s), without any liability for so doing.

18.4 Extension of Time to Cure. Notwithstanding the foregoing provisions set out in Section 18.3, in the event that the condition of default cannot reasonably be cured by Alton Coal within the sixty (60) day period (with the exception of monies due and owing to Lessor), then the time period for Alton Coal to cure the condition of default shall be automatically extended by that amount of time reasonably necessary to cure the condition of default, where no irreparable loss or harm will be suffered by Lessor in the interim. Alton Coal shall have the responsibility to use all good faith efforts to cure the condition of default in the least amount of time necessary to do so.

18.5 Forbearance by Lessor. Provided, any failure to exercise Lessor's right, hereunder, at any time, from time to time, or for any period of time to declare Alton Coal in default, shall not be deemed a waiver, modification, or abrogation of the provisions of this Article, in whole or in part, and any such failure to exercise said rights shall not preclude or prevent Lessor from enforcing its rights under this Article, at any time or from time to time, thereafter upon any subsequent default.

18.6 Force Majeure. Lessee shall not be deemed in default for failure to perform any of its obligations during periods in which performance is prevented by any cause reasonably beyond Lessee's cause or control (any such cause being herein called "Force Majeure") such as, for example and not by way of limitation, fire, adverse geological conditions, floods,

windstorms, other damage from the elements, strikes, unavailability of transportation or necessary equipment, lack of satisfactory market for coal from the Leased premises, action of governmental authority, litigation, acts of God or acts of terror or of the public enemy. The duration of this Lease Agreement shall be extended, unless sooner terminated by Lessee, for a period equal to the period for which performance is suspended due to Force Majeure. All periods of Force Majeure shall be deemed to begin only at such time as Lessor has received written notice thereof. Lessee shall also notify Lessor of the ending date of each such period of Force Majeure. This section shall not apply in any way to monetary payments required or permitted of Lessee under the terms of this Lease Agreement, which payments shall not be excused or delayed by any Force Majeure.

ARTICLE 19

NOTICES

19.1 **Service.** All notices where provided for or required anywhere in this Lease Agreement shall be served upon the receiving Party by (a) United States Postal Service, postage pre-paid, certified mail, with return receipt requested, and in addition by (b) first class mail postage pre-paid. Notice shall be delivered to the following addresses:

For Lessor:

Roger M. Pugh
140 South 100 West
Kanab, Utah 84741

With a Copy To:

For Lessee:

Alton Coal Development, LLC
6602 Ilex Circle
Naples, Florida 34109

With a Copy To:

Chris McCourt
463 North 100 West, Suite 1
Cedar City, Utah 84720

In the case of change of the mailing address of any Party, the Party so changing its mailing address shall give written notice to the other Party.

ARTICLE 20

CUMULATIVE REMEDIES AND ARBITRATION

20.1 **Cumulative Rights.** In addition to all other rights and remedies herein provided, the parties shall have the right to pursue any and all rights and remedies they may have under the law of the State of Utah or otherwise concerning any violation and/or default of any term, condition, provision, and agreement hereof.

20.2 **Binding Arbitration.** Disputes between the parties under the terms and conditions of this Lease Agreement shall be submitted to binding arbitration.

20.3 **Selection of Arbiters.** The party seeking arbitration shall provide written notice of its election to submit any dispute(s) to arbitration along with the name of one (1) disinterested person to serve on the arbitration panel. Thereafter, the other party shall nominate one (1) disinterested person to serve on the arbitration panel and Lessor and Alton Coal shall jointly petition the American Arbitration Association to appoint a third-party, uninterested registered Professional Mining Engineer in the State of Utah, to serve as the third and final member of the arbitration panel. The arbitration panel shall be selected and finally appointed within twenty (20) days of the initiation of arbitration and shall set a date certain within thirty (30) days of appointment of the third panel member to conduct the arbitration hearing.

20.4 **Conduct of Proceedings.** All arbitration proceedings shall be conducted in accordance with and pursuant to the rules and regulations of the American Arbitration Association; and, the final decision of the arbitration panel shall be rendered within thirty (30) days of the arbitration hearing; and shall be final and binding upon Lessor and Alton Coal without any appeal, recourse, or right of trial of *de novo*, in any State Court and/or United States District Court.

20.5 **Costs.** The parties shall bear their own costs and attorney's fees incurred in the arbitration.

ARTICLE 21

CONFIDENTIALITY

21.1 **Covenant of Confidentiality.** Lessor agrees that all information about this Lease Agreement; the terms and conditions of this Lease Agreement; the Mining Operations; mining

plans; nature of seams or formations; leases; properties; finances; buyers of coal; or price of coal sold (collectively "Information") is proprietary to Alton Coal regarding these coal properties and operations. Lessor acknowledges the sensitive and confidential nature of all Information provided to Lessor by Alton Coal or that Lessor learns and Lessor agrees and covenants with Alton Coal to receive all Information as confidential. In addition, Lessor warrants that it will maintain the confidentiality of all Information as only between the parties to this agreement and will not disclose, reveal or convey any Information, whether intentionally, unintentionally or accidentally to any person or entity without the express written consent of Alton Coal. Lessor warrants that it will not directly or indirectly disclose any Information, whether in whole or any part of it, to any person or entity, unless that person or entity is a party to this Lease Agreement or, is a party to a separate Confidentiality and Non-disclosure Agreement with Alton Coal, or without the express written consent of Alton Coal.

21.2 No Competition. Lessor warrants that it will not utilize any of the Information for any purpose other than as set out in this agreement. None of the Information shall be used by Lessor in any manner to compete with Alton Coal nor in any way to diminish any rights that Alton Coal shall have, obtain or acquire. Lessor may not directly or indirectly incorporate, use, act upon or in any manner appropriate for its own use or use by others, any Information into any other investment, acquisition, mining or development in competition with Alton Coal, without the express written consent by Alton Coal.

21.3 Information Reviewed By Lessor. Except for the financial and tonnage reports supplied to Lessor, all other Information reviewed by Lessor, remains the property of Alton Coal. Lessor agrees to return to Alton Coal, on demand, any and all Information so furnished, as well as any copies or reproductions of any material produced by or created for or by Lessor. Lessor will not retain any copies or reproductions of any Information.

21.4 Injunctive Relief. In the event of any violation of the provisions of this Article 21, including but not limited to any actual or suspected unauthorized dissemination, release, or use of Information by Lessor, then in addition to all other remedies allowed by law, Alton Coal shall be entitled to obtain injunctive relief as well as monetary damages. Lessor agrees to indemnify Alton Coal for any losses it may suffer from the release or disclosure of Information by any person or entity not a party to this agreement, if such release or disclosure is as a direct or

indirect result of any action, inaction or omission by Lessor. The provisions of indemnification shall survive any expiration or termination of this Lease Agreement.

ARTICLE 22

MISCELLANEOUS

22.1 **Choice of Law.** This Lease Agreement, in all respects, shall be governed, construed, and enforced in accordance with the substantive laws of the State of Utah.

22.2 **Time is of the Essence.** Time is of the essence of each and every term of this Lease Agreement and each and every performance required hereby.

22.3 **Merger.** This Lease Agreement constitutes the entire, integrated agreement by and between the Parties hereto with respect to the subject matters hereof and supersedes all oral and written, prior and contemporaneous negotiations, representations, agreements, and undertakings of the Parties hereto relating to the subject matters hereof.

22.4 **Modifications.** This Lease Agreement shall not be modified, altered, supplemented or otherwise amended, in whole or in part, unless said modification, alteration, supplement, and/or other amendment is in writing and mutually executed by the Parties hereto. No evidence of any such modification, alteration, supplement, or amendment of this Lease Agreement shall be received in any controversy arising out of or pursuant to the same unless it is in writing and executed as specified.

22.5 **Severance for Partial Invalidity.** In the event any provision of this Lease Agreement shall be adjudged invalid by a Court having competent jurisdiction over the Parties hereto, such invalid provision shall be deemed deleted from this Lease Agreement and this Lease Agreement shall be construed as to give full force and effect to the remaining provisions hereof.

22.6 **Recording.** Alton Coal may record this Lease Agreement, a Short Form Lease, or a memorandum of the same, without the prior written consent of Lessor first had and obtained. Upon the expiration, cancellation, or earlier termination of this Lease Agreement and in the event this Lease Agreement, or a memorandum hereof, have been previously recorded, then upon Lessor's request Alton Coal shall provide Lessor a recordable memorandum, in a form

prescribed by Lessor, witnessing the expiration, cancellation, or earlier termination of this Lease Agreement.

22.7 Survival. All representations, warranties, obligations, agreements, stipulations, and covenants made herein or in connection herewith, notwithstanding any provisions of this Lease Agreement that may appear to the contrary, shall survive, to their full extent, the expiration, cancellation, or earlier termination of this Lease Agreement for whatever reason. All such representations, warranties, obligations, agreements, stipulations, and covenants shall remain fully enforceable until such time as they have been fully kept, paid, honored, observed, and/or performed subject only to any applicable statute(s) of limitation.

22.8 Relationship of Parties. The relationship between the Parties hereto is solely that of landlord and tenant, and such relationship shall not be interpreted or established as that of partners, joint venturers, cotenants, principal, and agent, or any relationship other than that of landlord and tenant. Lessor's right to review any of Alton Coal's mining projections, plans, maps, and other data, and Lessor's right to inspect Alton Coal's records or mines shall not be deemed, treated, or construed as anything more than Lessor's right to review the same. Lessor has no right of management over any of the Mining Operations conducted by Alton Coal. Nothing herein provided shall be construed as creating an employment relationship or a relationship other than that of landlord and tenant between Lessor and Alton Coal.

22.9 Captions and Pronouns. The captions appearing in this Lease Agreement are for identification purposes only and shall not be construed as affecting in any way the meaning of the provisions hereof. Individual Lessors may also be referred to as "it" or similar terms and the plural and singular shall be understood to be one and the same where applicable in reference to the Lessor or Lessors.

22.10 Inure to and Bind the Parties. This Lease Agreement, and the conditions, provisions, covenants, acknowledgments, stipulations, options, and agreements contained herein, shall inure to the benefit of and be of full and binding effect upon the Parties hereto and their respective successors, assigns, beneficiaries and transferees. Nothing set forth in this Lease Agreement confers or is intended to confer upon any person or entity other than the Parties hereto, and their respective successors, assigns, and transferees, any benefits, rights, or remedies under or by reason of this Lease Agreement, excepting solely as set forth herein.

22.11 **Additional Documents.** The Lessor agrees to execute any documents or instruments necessary to fully effectuate the purpose of this Lease Agreement and to facilitate the Mining Operations or as a curative measure, including but not limited to any amendments, permit applications, licenses, easements or authorizations as required by Alton Coal, without any further payment or consideration.

22.12 **Multiple Counterparts.** This Lease Agreement may be executed in counterparts, each of which shall be deemed an original, but all taken together shall constitute the same instrument.

IN WITNESS WHEREOF, this Lease Agreement is executed as of the date and year first above written.

LESSOR: ROGER M. PUGH AND KATHLEEN R. PUGH

Date: Sept 11, 2008

Roger M. Pugh
ROGER M. PUGH

Kathleen R. Pugh
KATHLEEN R. PUGH

LESSEE: ALTON COAL DEVELOPMENT, LLC

Date: 9-11-08

BY: Shirley Pugh

ITS: Manager

NOTARY ACKNOWLEDGMENTS

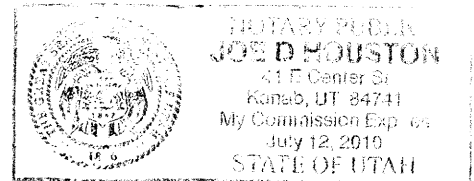
STATE OF UTAH }
: SS.
COUNTY OF KANE }

The foregoing Lease Agreement was subscribed, sworn to and acknowledged before me
by Roger M. Pugh on this 11 day of September, 2008.

My Commission Expires: July 12, 2010

STATE OF UTAH }
: SS.
COUNTY OF KANE }

Joe D Houston
NOTARY PUBLIC

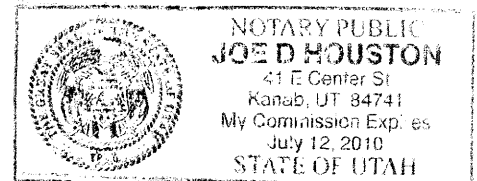


The foregoing Lease Agreement was subscribed, sworn to and acknowledged before me
by Kathleen R. Pugh on this 11 day of September, 2008.

My Commission Expires: July 12, 2010

STATE OF UTAH }
: SS.
COUNTY OF KANE }

Joe D Houston
NOTARY PUBLIC



The foregoing Lease Agreement was subscribed, sworn to and acknowledged before me
by Chris McCourt acting on behalf of, under authority by and as
the MANAGER of ALTON COAL DEVELOPMENT, LLC on this 11 day of
September, 2008.

My Commission Expires: July 12, 2010

Joe D Houston
NOTARY PUBLIC

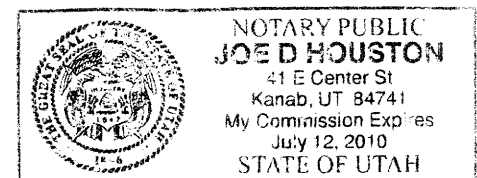


EXHIBIT 1
Description of Tracts

All that certain real property situated in Kane County, Utah, more particularly described as follows:

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M Section 30:
All of Sectional Lot #1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$); NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$; ALSO:
BEGINNING 3.50 chains West of the East Quarter corner of Said Section 30, and running South 34° 34' West 22.64 chains to the 1/16 section line; thence West 2.64 chains to the Southwest corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Said Section 30; thence North 40.00 chains; thence East 20.00 chains; thence South 14.69 chains; thence southwesterly to the point of beginning.

...containing 217.64 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M Section 29:
BEGINNING at the Northwest corner of Said Section 29, and running thence South 34.69 chains; thence North 33° 22' East 35.50 chains; thence North 40° West 0.58 chains; thence North 37° 30' East 12.30 chains; thence West 22.23 chains to the point of beginning.

...containing 36.04 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 19: SW $\frac{1}{4}$ SE $\frac{1}{4}$

...containing 40.00 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 20: S $\frac{1}{2}$ SW $\frac{1}{4}$

...containing 79.00 acres, more or less.

COAL OWNERSHIP**INTEREST**

C. Burton Pugh
533 North 650 East
Lindon, Utah 84042-1567

40.50%

Roger M. Pugh
140 South 100 West
Kanab, Utah 84741

37.00%

Margaret Moyers
9397 Avanyu Drive
Pleasant Grove, Utah 84062

22.50%

SURFACE OWNERSHIP**INTEREST**

C. Burton Pugh
533 North 650 East
Lindon, Utah 84042-1567

100%

EXHIBIT 2
COMMON MINING OPERATIONS

All certain real property situated in Township 39 South, Range 5 West, SLB&M, Kane County, Utah, more particularly described as follows:

DESCRIPTION:

Township 39 South, Range 5 West, SLB&M

Section 30: All of Section Lot #1 (NW1/4 NW1/4); NE1/4NW1/4; N1/2NE1/4

ALSO: Beginning 3.50 chains West of the East Quarter corner of Said Section 30, and running South 34°34' West 22.64 chains to the 1/16 section line; thence West 2.64 chains to the Southwest corner of NE1/4SE1/4 of Said Section 30; thence North 40.00 chains; thence East 20.00 chains; thence South 14.69 chains; thence southwesterly to the point of beginning ...containing 217.64 acres, more or less.

DESCRIPTION:

Township 39 South, Range 5 West, SLB&M

Section 30: Beginning at a point 5.31 chains North of the E1/4 corner of Said Section 30, and running thence South 45.31 chains; thence West 20.00 chains; thence North 20.00 chains; thence East 2.64 chains; thence North 34°34' East 22.64 chains to the 1/16 section line; thence North 33°22' East to the point of beginning ...containing 61.96 acres, more or less.

DESCRIPTION:

Township 39 South, Range 5 West, SLB&M

Section 29: Beginning at the Northwest corner of Said Section 29, and running thence South 34.69 chains; thence North 33°22' East 35.50 chains; thence North 40° West 0.58 chains; thence North 37°30' East 12.30 chains; thence West 22.23 chains to the point of beginning ... containing 36.04 acres, more or less.

DESCRIPTION:

Township 39 South, Range 5 West, SLB&M

Section 19: SW1/4SE1/4, E1/2SE1/4, SE1/4NE1/4 ... containing 160.0 acres, more or less.

DESCRIPTION:

Township 39 South, Range 5 West, SLB&M

Section 20: SW1/4 ... containing 160.0 acres, more or less.

Chris McCourt
Alton Coal Development, LLC
463 N. 100 W., Suite 1
Cedar City, UT 84720

MEMORANDUM OF
COAL MINING LEASE

between
ROGER M. PUGH

and

ALTON COAL DEVELOPMENT, LLC

Tracts
9-5-19-1
9-5-20-2
9-5-29-3
9-5-30-2

On the 11 day of September, 2008, Roger M. Pugh and his wife Kathleen R. Pugh, Utah residents whose local mailing address is 140 South 100 West, Kanab, Utah 84741, as "Lessor" entered into a Coal Mining Lease with Alton Coal Development, LLC, a Nevada Limited Liability Company, with a principal address of 6602 Ilex Circle, Naples, Florida 34109, as "Lessee."

The Lessor and the Lessee agree that this Memorandum of Coal Mining Lease is an acknowledgment by the Lessor of the existence of the Coal Mining Lease and that all of the Lessor's rights to the described estate ("Leased Premises") are subject to the terms and conditions of the Coal Mining Lease as conveyed to Lessee.

More particular inquiry must be made of the Coal Mining lease for the actual terms and conditions of the Coal Mining Lease contained therein and reference is made to the Coal Mining Lease for the specific terms and conditions as agreed to between the parties.

The Leased Premises described within the Coal Mining Lease are as follows:

All that certain real property situated in Kane County, Utah, more particularly described as follows:

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M Section 30:

All of Sectional Lot #1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$); NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$; ALSO: BEGINNING 3.50 chains West of the East Quarter corner of Said Section 30, and running South 34° 34' West 22.64 chains to the 1/16 section line; thence West 2.64 chains to the Southwest Corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Said Section 30; thence North 40.00 chains; thence East 20.00 chains; thence South 14.69 chains; thence southwesterly to the point of beginning
...containing 217.64 acres, more or less; and

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M Section 29:

BEGINNING at the Northwest corner of Said Section 29, and running thence South 34.69 chains; thence North 33° 22' East 35.50 chains; thence North 40° West 0.58

ENTRY NO. 00141050
09/11/2008 02:52:25 PM B: 0356 P: 0732
Memorandum
VERJUAN CARUSO, KANE COUNTY RECORDER
FEE \$ 22.00 BY CHRIS MC COURT

chains; thence North 37° 30' East 12.30 chains; thence West 22.23 chains to the point of beginning.

...containing 36.04 acres, more or less; and

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 19: SW $\frac{1}{4}$ SE $\frac{1}{4}$

...containing 40.00 acres, more or less; and

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 20: S $\frac{1}{2}$ SW $\frac{1}{4}$

...containing 79.00 acres, more or less.

The term of the leasehold as set out within the Coal Mining Lease begins with an effective date of the 11 day of September 2008 and does not expire until the latest of Ten (10) years from that date, or until the complete removal of the Mineable and Merchantable Coal by Lessee and may be extended or renewed by other terms and conditions contained within the Coal Mining Lease.

This Memorandum of Coal Mining Lease does not limit nor expand the rights specified within the Coal Mining Lease, nor is it intended to contradict any specific provision contained within the Coal Mining Lease.

The Parties have subscribed to this Memorandum of Coal Mining Lease Agreement, to provide for and allow for the recordation of same as reference to the Coal Mining Lease entered into between the parties and to have all of the right, title and interest of the Lessor in the Leased Premises subject to the Coal Mining Lease Agreement, as if the Coal Mining Lease Agreement had been recorded in its entirety.

{Execution Appears on the Following Page}

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ENTRY NO. 00141050

09/11/2008 02:52:25 PM B: 0356 P: 0733

Memorandum PAGE 2 / 4

VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 22.00 BY CHRIS MC COURT



LESSOR: ROGER M. PUGH AND KATHLEEN R. PUGH

Date: Sept 11, 2008

Roger M. Pugh
ROGER M. PUGH

Kathleen R. Pugh
KATHLEEN R. PUGH

LESSEE: ALTON COAL DEVELOPMENT, LLC

Date: 9-11-08

BY: Chris Schubert

ITS: Manager

ENTRY NO. 00141050

09/11/2008 02:52:25 PM B: 0356 P: 0734

Memorandum PAGE 3 / 4

VERJEAN CARUSO, KANE COUNTY RECORDER

FEE \$ 22.00 BY CHRIS MC COURT



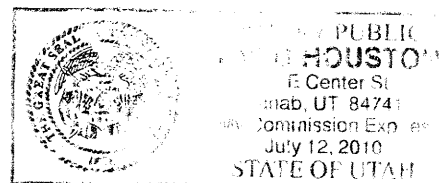
NOTARY ACKNOWLEDGMENTS

STATE OF UTAH }
COUNTY OF KANE } : SS.

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to, and acknowledged before me by Roger M. Pugh on this 11 day of September, 2008.

Joe D. Houston
NOTARY PUBLIC

My Commission Expires: July 12, 2010
Residing at: Kanab Utah

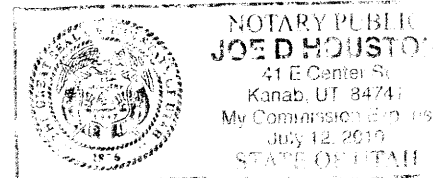


STATE OF UTAH }
COUNTY OF KANE } : SS.

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to, and acknowledged before me by Kathleen R. Pugh on this 11 day of September, 2008.

Joe D. Houston
NOTARY PUBLIC

My Commission Expires: July 12, 2010
Residing at: Kanab Utah

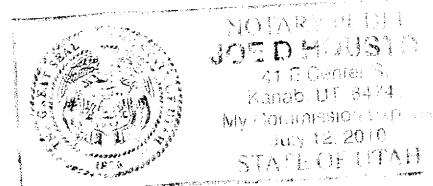


STATE OF UTAH }
COUNTY OF KANE } : SS.

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to, and acknowledged before me by Chris McCourt acting on behalf of, under authority by and as the MANAGER of ALTON COAL DEVELOPMENT, LC on this 11 day of September, 2008.

Joe D. Houston
NOTARY PUBLIC

My Commission Expires: July 12, 2010
Residing at: Kanab Utah





COAL MINING LEASE
between
MARGARET MOYERS
MARK MOYERS
and
ALTON COAL DEVELOPMENT, LLC

Tracts
9-5-19-1
9-5-20-2
9-5-29-3
9-5-30-2

THIS COAL MINING LEASE, sometimes referred to as the "*Lease Agreement*", is effective as of the 1st day of January, 2008, and is by and among **Margaret Moyers**, a Utah resident, and her husband **Mark Moyers** whose local mailing address is 9397 Avanyu Drive Pleasant Grove, Utah 84062, hereafter collectively referred to as "*Lessor*" and **Alton Coal Development, LLC**, a Nevada Limited Liability Company, with a principal address of 6602 Ilex Circle, Naples, Florida 34109, hereafter referred to as "*Alton Coal*" or "*Lessee*."

WITNESSETH:

WHEREAS, Lessor owns that certain coal estate lying within certain tracts or parcels of real property lying and being located in Kane County, Utah and as more specifically set forth in attached Exhibit 1 "Description of Tracts", which land and estate is hereafter described as the "*Leased Premises*" ; and

WHEREAS, Lessor has agreed to lease unto Alton Coal all of the coal contained within any and all seams of coal lying in or upon the Leased Premises, subject in all respects to each and every term, covenant, provision, and condition set forth hereinbelow; and

NOW, THEREFORE, for and in consideration of Alton Coal's proper and timely payment of the described specified rents, royalties, and the observation and performance of the terms and conditions contained herein, with reliance upon Alton Coal's part to pay, honor, observe, and/or perform, the parties do hereby agree to the following terms and conditions of this Coal Lease Agreement.

ARTICLE 1
GRANT OF LEASEHOLD

1.01 Lease of Coal. Lessor hereby leases, lets and demises to Alton Coal, subject to and conditioned upon each and every term, covenant, provision, and condition hereof, and for and during the Initial Term and any renewal or extension thereof:

- (a) the right and privilege to explore for and mine and remove all of the Mineable and Merchantable Coal lying in, beneath or upon the Leased Premises as the Leased Premises are identified within Exhibit 1 to this Lease Agreement, which Exhibit 1 is incorporated herein by this reference; and
- (b) the right to conduct mining activities using all available methods for the extraction, mining and removal of coal, whether such techniques or equipment used for the extraction, mining and removal of the coal are now available or that may become available in the future, such as including but not limited to surface mining, pit, drag line, auger mining, high wall mining, thin seam miners or other methods designed to facilitate the mining or as required to conduct the Mining Operations; and
- (c) the exclusive right and privilege to conduct the aforesaid mining upon and within the Leased Premises and to use and affect as much of or all of the Leased Premises as desired by Alton Coal, without limitation, and
- (d) the right to market and sell said coal, all in accordance with the provisions of this Lease Agreement.

1.02 Transportation and Access Rights. In addition to the rights set forth in §1.01 above, including the right to explore for, excavate, mine, remove and sell the coal from the Leased Premises, Lessor hereby leases, lets and demises to Alton Coal:

- (a) the unfettered right to transport all coal recovered from the Leased Premises across the surface or anywhere beneath the surface of the Leased Premises; and
- (b) the exclusive right, easement, and privilege to enter upon or within said Leased Premises and perform all work, services, and related activities which may be necessary,

convenient, or incidental to the mining operation, including the passage of people, vehicles, machinery, equipment, supplies or materials.

1.03 **Inclusive Rights.** The rights granted by Lessor are and include:

(a) the exclusive, dominant and superior right to exercise, utilize, and enjoy any and all of the rights set out within this Lease Agreement including but not limited to those set out within this Article 1, as well as all other rights, easements, and privileges previously or subsequently leased, let, demised, granted, and/or conveyed to or acquired by Lessor (and/or its affiliates, subsidiaries, agents, parent companies, successors, or assigns) under, pursuant to, or in accordance with any surface rights agreements, leases, agreements, subleases, deeds, or other instruments affecting the Leased Premises and/or any other premises appurtenant, vicinal, or adjacent thereto, now owned, possessed or hereafter obtained by Lessor in relation to the Leased Premises; and

(b) the right to freely and fully utilize and exercise said mining rights, privileges, and easements as may be necessary, convenient, or incidental to Alton Coal, its successors' or assigns' activities within any coal(s) reserved to it hereunder and/or any other coal(s) on, in or upon the lands; and

(c) Lessor hereby covenants, agrees, and stipulates that the rights granted to Alton Coal are superior and dominant, in all respects, to any rights, easements, privileges, estates, and/or covenants retained by or belonging to Lessor.

ARTICLE 2

TERM

2.01 **Initial Term.** The "Initial Term" of this Lease Agreement shall be the period of Ten (10) years from and including the date first above written.

2.02 **Renewal Terms.** Subject to the limitations of §2.04 below, in the event that Alton Coal has not commenced Mining Operations upon the Leased premises at the conclusion of the Initial Term, Alton Coal shall have the right, but not the obligation, to renew this Lease Agreement, for a "Renewal Term" of ten (10) years upon the same terms and conditions.

2.03 Continuation of Lease During Mining Operations. Notwithstanding any terms that may appear to be to the contrary, so long as Alton Coal is engaged in Mining Operations, the term of this Lease Agreement shall be automatically extended during and be coterminous with and throughout the period of Mining Operations until completed and Alton Coal shall remain possessed of the leasehold rights granted herein throughout the life of the Mining Operations and until such time as Alton Coal ceases the Mining Operations or surrenders the Leased Premises to Lessor.

2.04 Extension of Term. The Subject Property or Leased Premises are one of several properties located within a contiguous area of properties, including those that may be depicted on Exhibit 2 attached and entitled "*Common Mining Operations*". Alton Coal shall commence Mining Operations on at least one of said properties within the Initial Term of this Lease Agreement. Notwithstanding any terms that may appear to be to the contrary, so long as Alton Coal is engaged in Mining Operations on any of the lands described on Exhibit 2, the term of this Lease Agreement shall be automatically extended and be coterminous with the period of Common Mining Operations and Alton Coal shall remain possessed of the leasehold rights granted herein throughout the life of the Common Mining Operations until such time as Alton Coal ceases the Common Mining Operations or surrenders the Leased Premises to Lessor. In addition, regardless of any other limitations, this Lease shall be automatically extended by any delay in permitting, initiation or conducting of Mining Operations due to any protest or challenges (including but not limited to administrative hearings or court actions) to a mining permit that encompasses the Leased Premises or the contiguous areas that are part of the Common Mining Operations to be conducted by Alton Coal. The automatic extension shall be for the same period of time of protest or contest of the issuance or enforceability of the mining permit, or the right to mine that prevents mining pursuant to the mining permit submitted by Alton Coal to the Utah, Division of Oil, Gas, and Mining (DOGM), or that is regulated by the United States Department of Interior, Bureau of Land Management (BLM), or Office of Surface Mining (OSM), or any other regulatory body that will impact upon or affect the Mining Operations. In addition, unless this Lease Agreement is sooner cancelled or terminated pursuant

to the terms of this Lease Agreement, the Initial Term or any Renewal Term of this Lease Agreement shall be extended until such time as the latest of:

- (a) Alton Coal has had sufficient time to extract, mine and remove all Mineable and Merchantable Coal from the Leased Premises; or
- (b) Alton Coal has had sufficient time to extract, mine and remove all Mineable and Merchantable Coal from those areas encompassing any Logical Mine Unit (LMU) which include the Leased Premises or are mined in conjunction with the Leased Premises; or
- (c) Alton Coal has had sufficient time to extract, mine and remove all Mineable and Merchantable Coal from the lands where the Leased Premises are being mined by Alton Coal in conjunction with, or as part of the Mining Operations being conducted or in conjunction upon other lands.

2.05 Additional Extension of Term. The term of this Lease Agreement, as set forth within this Article 2, whether the Initial Term or any extension, renewal or continuation, shall be further extended for that additional period of time following the conclusion of Mining Operations, as necessary, for the purpose of and as necessary or incidental to:

- (a) allow for the completion of all reclamation activity by Alton Coal upon the Leased Premises or upon those areas encompassing any Logical Mine Unit (LMU) including the Leased Premises, or where the lands of the Leased Premises are being mined by Alton Coal in conjunction with, or as part of the Common Mining Operations being conducted upon other lands, and
- (b) allow Alton Coal to obtain release of all reclamation bonds on any permits covering, or including the Leased Premises. Alton Coal shall have all the rights as set out within this Lease Agreement in order to satisfactorily comply with all reclamation requirements, orders and regulations regarding the applicable permit(s) and Mining Operations.

ARTICLE 3
EXECUTION AND OTHER ROYALTIES

3.01 **Execution Royalty.** Alton Coal, for and in consideration of the execution and delivery of this Lease Agreement, the receipt and sufficiency of which is hereby acknowledged, pays unto Lessor the sum of Five Dollars (\$5.00) per acre (as described in Exhibit 1) as a single, lump sum execution fee, which is not recoupable for any purpose(s), hereunder and which the Lessor acknowledges the receipt and sufficiency of this execution fee.

3.02 **Advance Minimum Royalty.** Alton Coal covenants and agrees to pay unto Lessor the sum of Five Dollars (\$5.00) per acre (as described in Exhibit 1) as an annual Advance Minimum Royalty hereunder, irrespective of any tonnage(s) or amount(s) of coal mined and removed during any Term or Month(s) or during any other period(s). The Advance Minimum Royalty will be payable each year on the anniversary date of this Lease Agreement. The Advance Minimum Royalty payments shall be subject to the terms and provisions of abandonment of areas encompassed with the Leased Premises.

3.03 **Other Damages.** The royalties and compensation set forth in paragraphs 3.01, and 3.02 of this Agreement are acknowledged by Lessor to be sufficient compensation for and to fully satisfy all reasonable and customary damages and losses caused and created by the scope of surface Mining Operations contemplated by this Lease Agreement, including the permanent loss of subsurface, subjacent and adjacent support.

3.04 **Abatement of Royalties.** In that the reclamation of the Leased Premises is an additional benefit to Lessor, Alton Coal shall not be required to pay any Advance Minimum Royalties or any other additional royalties of any kind, fees or ground rent during the time that only reclamation activities are being conducted.

ARTICLE 4
PRODUCTION ROYALTIES

4.01 **Mineral and Surface Use Royalties.** Alton Coal covenants and agrees to pay the following royalties, based upon the production of coal from the Leased Premises, for all coal mined, removed and sold from the Leased Premises.

(a) a "Mineral Royalty" equal to Eight Percent (8%) of the Gross Selling Price per ton for each and every ton of Two Thousand (2,000) pounds of coal which is mined and sold from the Leased Premises, payable to the Mineral Owner or jointly to the Mineral Owners; and

(b) a "Surface Use Royalty" equal to Five percent (5%) of the Gross Selling Price per ton for each and every ton of Two Thousand (2,000) pounds of coal which is mined and sold from the Leased Premises, payable to the Surface Owner or jointly to the Surface Owners.

4.02 **Gross Selling Price.** For the purposes of calculating the tonnage royalty provided for herein, whether Mineral Royalty or Surface Use Royalty, for all coal which is mined, removed and sold hereunder, the "*Gross Selling Price*" of coal shall be that price actually charged to the "*Arm's-length Purchaser*" of said coal F.O.B. mine site. An Arm's Length Purchaser is any purchaser in which Alton Coal does not have an economic interest, or with which Alton Coal may be otherwise "affiliated", in any respect. In the case of any coal mined from the Leased Premises pursuant to this Lease Agreement, not sold at arm's-length, or stored [for longer than sixty (60) total days] and/or consumed on or off the Leased Premises without any arm's length sale by Alton Coal, the gross selling price of said coal for purposes of computing the aforesaid tonnage royalty shall be presumed to be equal to average gross realization for coal being received at the coal tipple used by Alton or that closest to the mine at the time of Alton Coal's removal of the subject coal from the Leased Premises, or if stored or consumed on or off the Leased Premises, at the time of placement in storage or consumption, as applicable. In the event(s), and as often such event(s) may occur, of any sale or transfer of coal mined from the Leased Premises pursuant to this Lease Agreement not at arm's-length and the subsequent resale of said coal by such purchaser or transferee at arm's-length, the aforesaid tonnage royalty shall be based on the subsequent resale at arm's-length by such purchaser or transferee. For the purposes hereof, "affiliated" shall be construed as any person(s) or party(ies) related to, associated with, or otherwise connected with (in any manner(s), financially, and/or familiarly) to Alton Coal and/or its agents, employees, families, officers, directors, shareholders,

affiliates, subsidiaries, heirs, successors, assigns, associates, of either of them. Provided, that Lessor shall have the right and option, at any time or from time to time, to elect to receive the percentage royalty based upon the highest "gross selling price" defined hereunder, irrespective of the actual "gross selling price" of coal(s).

4.03 Expenses and Commissions. Notwithstanding any provisions that may appear to the contrary, Alton Coal shall be entitled to deduct from the amount of Gross Selling Price as used for computation of the royalties due under §4.01 the following items:

- (a) the costs of processing, washing, cleaning and sizing the coal; and
- (b) the costs incurred in the storage, transfer, shipment and transportation of all coal mined and sold; and
- (c) the costs incurred in the de-icing or spraying of any coal in rail cars or barges; and
- (d) commissions paid to independent brokers or coal sales agents as expenses and commissions paid by Alton Coal from the sale of the coal mined upon the Leased Premises, to the extent that Alton Coal must pay same or incur that expense or commission as a part of the Gross Selling Price of the coal.
- (e) to the extent that the purchaser of the coal incurs all expenses without deduction to the amount paid Alton Coal, then there will be no deduction of same from the Gross Selling Price of the coal.

4.04 Payment Dates. Notwithstanding anything contained herein to the contrary, all tonnage royalty payments due Lessor hereunder shall be paid by Alton Coal on or before the Twentieth (20th) day of the month, following the month in which such coal is mined and removed from the Leased Premises.

4.05 Partial Ownership Rights. Notwithstanding anything contained herein that may appear to be to the contrary, in the event that the Lessor owns only a partial interest in either the coal (mineral) or the surface, then the Advance Minimum Royalty (§3.02); and Production Royalties (§4.01) shall be paid proportionately to all respective owners of either the coal (mineral) or the surface, or to the rightful owners of these rights, based upon their interest of

ownership and the Lessor shall be paid only that proportionate amount equal to their rights of ownership.

ARTICLE 5 TONNAGE DETERMINATION

5.01 **Tonnage Weights.** The quantity of coal mined from the Leased Premises pursuant to this Lease Agreement shall be determined by the end user or Arm's Length Purchaser's weight determination for which Alton Coal is paid. In the event that the coal is not sold, then volumetric measurement may be used if truck scales or tippie weights are not available. The volumetric measurements made by Alton Coal, and/or its successors, or assigns, shall be final and binding, provided, in the event Lessor disputes the weights in writing within Ten (10) days of receipt of Alton Coal's volumetric tonnage estimate and/or disagrees with said volumetric measurements, Lessor may submit the same to arbitration, pursuant to and in accordance with the terms set out below.

5.02 **Tonnage Reports.** Alton Coal covenants and agrees to supply Lessor on or before the Twentieth (20th) day of each month a true and accurate monthly tonnage account and statements of all coal mined and removed from the Leased Premises during the preceding month. Such monthly tonnage statement shall specify:

- (a) the tonnage of coal mined pursuant to this Lease Agreement;
- (b) the Gross Selling Price received by Alton Coal for coal mined pursuant to this Agreement;
- (c) the tonnage royalty due on coal sold; and
- (d) all other reasonably available information regarding the coal mined and the deductible expenses associated with the mining of the coal and in a form which Lessor may request from time to time.

5.03 **Right of Inspection.** Lessor shall have the right to inspect the records of Alton Coal regarding the mining and sale of the coal from the Leased Premises and the Mining Operations.

(a) the inspection of records may be had if after giving Alton Coal no less than two (2) business days advance notice to inspect the records or the Mining Operations during reasonable business times and in a reasonable manner so as not to burden Alton Coal, nor interfere with the day by day operations of Alton Coal, nor to cause Alton Coal undue expense; and

(b) pursuant to all applicable laws and regulations, Lessor is authorized, and Alton Coal hereby grants the necessary ingress and egress for Lessor and/or its qualified agents or contractors (who are competent and certified to do so), from time to time, to make volumetric measurements of the Leased Premises for the purpose of determining the actual amount of coal mined and removed therefrom on which royalties are payable to Lessor pursuant to Article 4; and

(c) the inspections of the site shall be at the sole risk to Lessor and Lessor agrees to indemnify and hold Alton Coal harmless from any claims of injury or damage (including but not limited to its attorneys fees and costs) incurred by any agent or contractor of Lessor made against Alton Coal, that occur or arise out of any visit to or inspection of the Leased Premises; and

(d) Lessor shall give to Alton Coal reasonable notice of Lessor's intent to visit or inspect and the inspections shall be conducted only during those time as authorized by Alton Coal, with the designation of the time by Alton Coal to be reasonable.

5.04 Right to Commingle Coal. Alton Coal shall have the right to co-mingle coal mined from the Leased Premises with coal mined from other locations and Alton Coal shall not be required to pay any royalties to Lessor on the amount of coal co-mingled from other properties. Alton Coal shall keep accurate records of the amount of coal that is co-mingled with coal mined from the Leased Premises to deduct that amount from coal stored or sold by Alton Coal from the Leased Premises.

ARTICLE 6 RIGHTS OF USE

6.01 **Grant of Rights.** Lessor, irrevocably binding itself and its heirs, successors, assigns, and beneficiaries, does hereby and herewith grant and convey unto Alton Coal, its successors and assigns, the exclusive right, easement, and privilege to exercise, utilize, and/or otherwise enjoy, at any time and from time to time, during the continuance hereof, all of its rights, titles, estates, interests, easements, rights-of-way, leases, surface rights agreements, and/or other agreements in, to, and/or otherwise pertaining to any estates, surface or otherwise, which are located within the Leased Premises during any term of this Lease Agreement.

6.02 **Improvements Upon the Leased Premises.** Alton Coal shall have the right to construct in, on or upon the Leased Premises and make sole and exclusive use of such improvements as may be necessary or incidental to the exploration for and the extraction, removal, storage, treatment, washing, processing, transportation or disposition of said coal. The rights to construct and use said improvements shall include but not be limited to buildings, structures, holding tanks, roadways, entry ways, fans, portals or outlets, parking lots, power lines, transformer stations, poles, beltways, tram ways, water lines, rail lines, roadways, dams, ponds, basins, hollow fills or any other improvements. Alton Coal shall not be required to pay any additional ground rent or royalty arising from or related to the use of any improvements upon the Leased Premises. All improvements shall belong to and remain the property of Alton Coal.

6.03 **Subsurface, Subjacent and Adjacent Support.** Lessor, irrevocably binding itself and its heirs, successors, assigns, and beneficiaries, does, to the extent it may lawfully do so, hereby releases, relinquishes, waives, transfers, and otherwise sets-over unto Alton Coal, its successors and assigns forever, any and all statutory or equitable rights or claims to vertical, lateral, subjacent and adjacent support of the Leased Premises and, henceforth, Lessor hereby irrevocably binding itself and the aforespecified associated person(s) and party(ies) does hereby release, relinquish, waive, forego, transfer, and otherwise set over unto Alton Coal, its successors and assigns forever, any and all claims, demands, disputes, causes of action, choses in action,

rights, judgments, suits, and/or otherwise liabilities of any kind or nature which Lessor and/or any of the aforespecified associated person(s) or party(ies) may have by reason of any subsidence, failure, slumps, and/or slides occurring on or to the Leased Premises. It is specifically acknowledged and agreed by Lessor that Alton Coal, and/or Alton Coal's agent(s) or other mining companies or operators, may conduct underground Mining Operations which will include full pillar extraction, and or long-wall operations which may damage or affect the surface and/or limit the use of the surface either during or following mining, including any post mining use that may be envisioned by Lessor, including but not limited to the erection or use of any structure thereupon and that no additional compensation for such damage shall be required.

6.04 **Transport and Stockpiling of Coal.** Alton Coal shall have the right, by any means possible, to transport, hoist, and move coal across, through or upon the surface of the Leased Premises mined by Alton Coal from the Leased Premises, or from other properties owned, controlled or mined by Alton Coal.

6.05 **Non-Interference.** Lessor, irrevocably binding itself and its heirs, successors, assigns, and beneficiaries and each of them forever warrant that they shall not interfere with the Mining Operations of Alton Coal nor impede any of the Mining Operations conducted by Alton Coal.

ARTICLE 7 MODE OF DELIVERY/REPORTING

7.01 **Payments, Reports and Maps.** All tonnage royalty payments, tonnage reports, wheelage reports, maps, and all other reports, plans, and payments due Lessor pursuant to this Lease Agreement shall be mailed, without demand, as and when due to Lessor at its mailing address, or to such other mailing address(es) which Lessor may from time to time so designate in writing unto Alton Coal.

ARTICLE 8 OPERATIONS

8.01 **Mining Standards.** Alton Coal covenants and agrees that its operations on the Leased Premises shall be conducted in a practical, skillful, workmanlike, and diligent manner as

to expeditiously mine and remove the most Mineable and Merchantable coal leased hereby as is economically possible. Provided, Alton Coal shall not be required to remove all coal and conduct Mining Operations which, by consideration of local conditions or thickness of seam or character of coal, cannot be mined at a profit. Notwithstanding anything implied hereunder to the contrary, Alton Coal covenants and agrees to:

- (a) mine and remove all seams, leaders, riders, bands, and/or splits of coal regardless of quality if such seams can be mined at a profit to Alton Coal; and
- (b) at Lessor's discretion and option leave an underground face-up area including suitable adjacent and appurtenant rock storage area(s) in order to facilitate the efficient and economical subsequent backfilling and grading of said underground face-up area(s), as, when, and where requested by Lessor, which complies with all specifications of Lessor, or its agent(s), with respect thereto and is in compliance with all laws and regulations.

8.02 Compliance With Laws. Alton Coal covenants and agrees to conduct its Mining Operations and all of its other activities upon and within the Leased Premises at all times in full and complete compliance with all applicable statutes, regulations, rules, orders, and other governmental mandates which are currently in force or may be hereafter enacted by the United States of America, State of Utah, and/or other applicable governmental authority(ies). Alton Coal covenants and agrees not to utilize or participate in any utilization of the Leased Premises, in whole or in part, for any use(s) not specifically contemplated, hereunder.

8.03 Permits. Alton Coal covenants and agrees to secure, maintain, and keep in full force and effect, at its sole cost and expense all:

- (a) surface disturbance, mining, and reclamation permits from the State of Utah, Division of Oil, Gas and Mining (DOGM) [and/or its governmental successor(s)] with respect to mining and removal of coal from the Leased Premises as contemplated, hereunder; and,
- (b) all mine licenses from the United States of America Mine Safety and Health Administration (MSHA) and/or the State of Utah; and,

(c) any and all other necessary or incidental mine licenses or permits required to mine and remove coal hereunder in compliance with all of the laws and regulations of the State of Utah and/or United States of America.

8.04 Other Mining Operations and Definition of Common Mining Operations.

The coal contained in or upon the Leased Premises may be part of a seam or deposit of coal which extends through other lands onto or becomes part of the Leased Premises. Alton Coal may desire or find it advantageous to conduct Mining Operations upon the Leased Premises in conjunction with Mining Operations being conducted by Alton Coal upon other lands. Alton Coal shall have the absolute right to conduct Mining Operations upon the Leased Premises in conjunction with, part of, or associated with other Mining Operations being conducted by Alton Coal, even if not those operations are not located upon the Leased Premises which are to be considered as "*Common Mining Operations*". As part of the Common Mining Operations, Alton Coal shall have the right to include the Leased Premises as part of a Logical Mine Unit (LMU), a common mine plan, or part of a permit encompassing other lands, where the lands of the Leased Premises are being mined by Alton Coal in conjunction with or as part of the Mining Operations being conducted upon other lands, whether or not immediately adjacent to the Leased Premises, so long as conducted as part of a common mining plan or Mining Operation.

8.05 Definition of Mining Operations. For all purposes under this Lease Agreement, the term "*Mining Operations*" shall be broadly construed to include but not necessarily be limited to the actual removal of coal; the working of or preparation of any face, bench, pit or site for the mining or removal of coal; placement of or advancement of entryways, shafts, portals, ventilation, conveyors, or long walls; core drilling or active exploration for coal; operations conducted in conjunction with the washing, sizing, processing, storage, or transportation of coal; and or the reclamation of a previously mined site.

8.06 Definition of Mineable and Merchantable Coal. For all purposes under this Lease Agreement, the term "*Mineable and Merchantable Coal*" shall mean coal that can be mined at a profit by Alton Coal, when reached in the ordinary course of mining, using modern and efficient mining methods, practices and equipment.

ARTICLE 9
RECLAMATION AND POST MINING LAND USE

9.01 **Reclamation Standards.** Alton Coal shall diligently and in a workmanlike and timely fashion reclaim all sites disturbed by Alton Coal and satisfy all reclamation required under and pursuant to any Surface Disturbance, Mining and/or Reclamation Permits with respect to the Leased Premises and/or otherwise arising in connection with, as a consequence of, or in association with the mining and removal of coal as contemplated hereunder in accordance with all permit requirements and state and federal laws. As part of the reclamation of the Leased Premises, Alton Coal may establish the standards for post mining land use to be pasture, grass lands, or grazing land, or to the extent allowed to be consistent with the standards established by the applicable regulations.

9.02 **Exclusive Control.** Lessor shall not itself, nor shall any of its contractors, agents, employees, guests, invitees or assigns interfere with or in any way hinder the reclamation activities of Alton Coal nor have access to any areas being reclaimed without the express permission of Alton Coal, which permission Alton Coal may in its sole discretion deny if the access to the area may hinder or interfere with the reclamation activities. Lessor shall not itself, nor shall any of its contractors, agents, employees, guests, invitees or assigns interfere with or in any way hinder the reclamation activities of Alton Coal. Lessor shall not itself, nor shall Lessor allow any contractors, agents, employees, guests, invitees or assigns to have access to any areas being reclaimed without the express permission of Alton Coal, which permission Alton Coal may in its sole discretion deny if the access to the area may hinder or interfere with the reclamation activities. Alton Coal shall have sole and exclusive access, use and control to and of all areas that are being reclaimed until the latest of:

- (a) such time as all reclamation activity being conducted by Alton Coal is completed; and
- (b) Alton Coal has received a full release of all reclamation bonds on any permits covering, or including the Leased Premises.

9.03 **Enforcement.** Alton Coal shall have the right to seek injunctive relief before a court of appropriate jurisdiction to enforce its rights to have access to the Leased Premises, to conduct all reclamation activities and to deny access to all others to the areas being reclaimed.

9.04 **Indemnification.** Lessor shall indemnify and hold Alton Coal harmless from any losses, claims, damages, expenses, fines, fees, levies or other expenses, including attorneys fees and court costs, incurred by Alton Coal or suffered by Alton Coal as result of any interference or hindrance of the reclamation activities of Alton Coal by Lessor, its contractors, agents, employees, guests, invitees or assigns.

ARTICLE 10 RECORDS

10.01 **Record Keeping.** Alton Coal covenants and agrees to keep, maintain, and preserve true and accurate records, books, and accounts of the amount of all coal mined, removed and the Gross Selling Price(s) received for coal mined and removed from the Leased Premises pursuant to this Lease Agreement. All such sales price records, books, statements, and accounts shall be open to inspection by Lessor's agents as set out above. The provisions of this Paragraph (10.01) shall survive the expiration, cancellation, or sooner termination of this Lease Agreement.

10.02 **Maps.** Alton Coal shall furnish to Lessor accurate mining maps of Alton Coal's Mining Operations upon or within the Leased Premises upon as set out in Exhibit 1 on an annual basis within Thirty (30) days of the end of each and every calendar year. Such mining maps shall be prepared by a registered professional mining engineer; shall be on scales of One Inch (1") equals to One Hundred Feet (100') and One Inch (1") equals to Four Hundred Feet (400'); and, shall depict seam elevations, coal sections every One Hundred Feet (100') of pit length.

ARTICLE 11 TAXES

11.01 **Payment of Taxes by Alton Coal.** Alton Coal covenants and agrees to pay all taxes, fees, assessments, levies, and all other governmental charges which may be assessed, charged, or levied upon the improvements erected upon or in the Leased Premises by Alton Coal

and any and all of the personal property(ies) of Alton Coal; the coal severed, mined, and produced by Alton Coal pursuant to this Lease Agreement; Alton Coal's rights, titles, or interests in this Lease Agreement; or the leasehold estate hereby created, and which may be assessed, charged, and/or levied in connection with Alton Coal's mining operation; and other activities conducted pursuant to or in connection with this Lease Agreement, including, without limitation, mineral severance taxes, unmined mineral taxes, gross receipts taxes, employment taxes, black lung taxes, and abandoned mine land taxes and fees (AML) as, when, to the extent(s), and in the amount(s) the same become due and payable, without demand by Lessor.

11.02 Payment of Taxes by Lessor. Except for improvements erected or used by Alton Coal, Lessor covenants and agrees to pay all taxes, fees, assessments, levies, and all other governmental charges which may be assessed, charged, or levied upon the improvements erected thereupon and/or therein of the Leased Premises, and any and all of the personal property(ies) of Lessor as well as the ad valorem taxes upon the Leased Premises, when, to the extent(s), and in the amount(s) the same become due and payable, without demand by Alton Coal. Lessor shall not allow or permit any portion of the leasehold estate to be levied upon, forfeited or sold on account of any unpaid tax, assessment or charge.

11.03 Reimbursement. In the event(s) any such taxes, assessments, levies, fees, and/or other governmental charges, in whole or in part set forth in §11.02 should be paid by Alton Coal, then Lessor shall repay to Alton Coal such amount(s), in full, within Ten (10) days of Alton Coal sending a notice of a reimbursement request for the same. Lessor shall prepare and submit reports and/or payments on any unmined mineral taxes applicable to the Leased Premises, however, Alton Coal shall promptly reimburse Lessor for all unmined mineral taxes paid by Lessor to the extent such taxes are applicable to the Leased Premises. In the event(s) any such taxes, assessments, levies, fees, and/or other governmental charges, in whole or in part set forth in §11.02 should be paid by Alton Coal, then Alton Coal shall have the right to offset or take as a credit against royalties any amount paid for or behalf of Lessor.

11.04 Protest and Roll Backs. Alton Coal shall have the absolute right to protest or contest any tax, assessment or levy that may be in the name of Lessor but which is a tax,

assessment or levy to be paid by Alton Coal. In the event that the Leased Premises are taxed as agricultural property ("greenbelt") and if that classification or characterization of said land is changed due to the Mining Operations of Alton Coal, Alton Coal shall pay the increased amounts due to the roll back or new assessment.

ARTICLE 12
LIENS/REMOVAL OF EQUIPMENT AND IMPROVEMENTS

12.01 **Liens.** Alton Coal covenants and agrees to prevent any lien, assessment, attachment, and/or any other encumbrance, of whatsoever kind or nature, arising from the actions of Alton Coal, or its agents or contractors, from being filed against or encumbering Lessor's title in and to the Leased Premises.

12.02 **Payment by Lessor.** In the event, and as often as such event may occur, any third party(ies) perfects a legal right to encumber said Leased Premises, in whole or in part, as a result of Alton Coal's failure, in whole or in part, to pay such parties as herein provided, or as Alton Coal may be otherwise legally obligated, Lessor, at its sole option and in addition to its other rights and remedies hereunder including, but not limited to the remedies set out within this Lease Agreement, does and shall have the right to pay, in whole or in part, and settle with such parties directly. Provided, however, all such direct payments by Lessor shall be forthwith reimbursed by Alton Coal to Lessor. This paragraph and/or the payment of such direct payment sums, in whole or in part, by Lessor is not and shall not be construed as a waiver, alteration, or modification of any of the Alton Coal's obligations assumed by it hereunder not of Lessor's rights hereunder; nor as a covenant by Lessor to perform the same.

12.03 **Payment Without Demand.** All rentals, royalties, taxes, levies, fees, and other payments herein agreed to be paid by Alton Coal shall be paid as and when due, without demand, and all of the same shall be deemed and treated as rents reserved by Lessor; with Lessor, in addition to its other rights and remedies herein provided, reserving to itself all the rights and remedies of landlords under the present and future laws of the State of Utah for the collection and recovery of rents.

12.04 Removal of Equipment and Improvements. Upon the expiration, cancellation, or sooner termination, from whatever reason, of this Lease Agreement, Alton Coal shall have the right within one hundred eighty (180) days, thereafter, to remove all of its (and, if applicable, caused removed its contractor's) personal property, machinery, equipment, improvements, and other apparatus from the Leased Premises; provided however that Alton Coal:

(a) has paid the royalties, and all other monies due or to become due to Lessor hereunder; and,

(b) has otherwise faithfully and fully kept, performed, honored, and observed all other terms and conditions of this Lease Agreement on its part to keep, perform, honor, and/or observe; however,

(c) notwithstanding the foregoing, Alton Coal may maintain on site any equipment, materials, supplies or improvements necessary for the continued reclamation of the Leased Premises.

12.05 Removal of Trash and Rubbish. Upon the expiration, cancellation, or sooner termination from whatever reason of this Lease Agreement, or upon the cessation of Mining Operations by Alton Coal for any cause whatsoever, Alton Coal shall leave the Leased Premises, free from any accumulation of rubbish or trash.

ARTICLE 13 INDEMNIFICATION

13.01 Indemnification by Alton Coal. Alton Coal agrees to defend, indemnify, and forever hold Lessor harmless from and/or against any and all liabilities arising, directly, indirectly, out of and/or as a consequence of Alton Coal's use, occupation, utilization, and/or Mining Operations and/or any other related work, services, or other activities conducted pursuant to or in connection with this Lease Agreement, together with all costs and expenses including, but not limited to, attorney's fees and other litigation costs that may be incurred by Lessor in connection therewith, so long as the liabilities were caused by the negligence or fault of Alton Coal.

13.02 **Indemnification by Lessor.** Lessor agrees to defend, indemnify, and forever hold Alton Coal harmless from and/or against any and all liabilities arising, directly, indirectly, out of and/or as a consequence of Lessor's actions or other activities conducted pursuant to or in connection with the Leased Premises, together with all costs and expenses including, but not limited to, attorney's fees and other litigation costs that may be incurred by Alton Coal in connection therewith, so long as the liabilities were caused by the negligence or fault of Lessor.

13.03 **Survival.** The provisions of indemnification as set out within this Article 13 shall survive the expiration or termination of this Lease Agreement.

ARTICLE 14 INSURANCE

14.01 **Coverage by Alton Coal.** Alton Coal covenants and agrees to obtain, keep, and maintain, in full force and effect, at all times, during the continuance of this Lease Agreement a comprehensive general liability insurance covering Alton Coal's Mining Operations and other activities conducted pursuant to or in connection with this Lease Agreement with the greater of those minimum liability coverage limits required by law, or liability coverage limits of no less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for the death and/or injury of person(s) and/or damage to any real or personal property(ies).

14.02 **Additional Coverages.** In addition to the previously specified liability insurance, Alton Coal covenants and agrees to obtain, keep, and maintain in full force and effect, at all times, coverage concerning Workmen's Compensation and Black Lung Claims, Unemployment Compensation Insurance, occupational disease insurance, employer liability insurance, and all insurance coverages concerning Alton Coal's operations and other activities conducted pursuant to this Lease Agreement now and/or hereafter required by the United States of America, State of Utah, and/or all other applicable governmental authorities.

ARTICLE 15 ASSIGNMENT

15.01 **Assignment by Alton Coal.** This Lease Agreement, the leasehold estate created hereby, and any rights, titles, interests, easements, and/or privileges leased hereby, may be assigned, mortgaged, conveyed, subleased, licensed, encumbered, contracted, permitted, or otherwise transferred or set over by Alton Coal, in whole or in part, without the express, written consent of Lessor first had and obtained as necessary for the full and complete removal of all Mineable and Merchantable coal.

15.02 **Obligation of Assignee.** In the event of an assignment, mortgaging, conveyance, sublease, license, encumbrance, contract, or otherwise transfer of this Lease Agreement, the assignee shall be obliged to assume and fulfill all obligations of Alton Coal as set out within this Lease Agreement.

ARTICLE 16 WARRANTY OF TITLE

16.01 **Warranty of Ownership.** Lessor hereby warrants and represents that Lessor is the fee simple title holder and sole owner of all rights, titles, estates, and/or interests in, to, pursuant to, or held in accordance with the Leased Premises (as described in the attached schedule) and as conveyed to Alton Coal including all coal and the rights to mine and sell said coal from the Leased Premises.

16.02 **No Defects.** Lessor hereby warrants and represents that the title granted by Lessor to the Leased Premises is free and clear of any lien or encumbrance of any kind and that Lessor has the unrestricted right to enter into this Lease Agreement with Alton Coal, regarding the Leased Premises and that there are no outstanding contractual arrangements or obligations, without limitation, that will diminish, restrict or inhibit the rights granted to Alton Coal.

16.03 **Consideration for Warranty.** The Royalties payable to Lessor under the terms of this Lease Agreement are based upon and in consideration for the conveyance of the full, unrestricted and unencumbered rights granted to Alton Coal and the right of Alton Coal to mine and sell the coal from the Leased Premises without the requirement to obtain any further rights

regarding the Leased Premises and the operations to be conducted thereon or to pay any additional fees, royalties or rents except as set out within this Lease Agreement to Lessor.

16.04 Defect in Title. In the event, the Lessor's title in and to the Leased Premises, is defeated, in whole or in part, by the holder of superior title in and to the same, Lessor shall repay Alton Coal any tonnage royalty(ies) paid on coal(s) mined from the area then in question, without interest to the extent and in the same proportion that the interest of Lessor is defective. Thereafter Alton Coal's obligation and covenant to pay all monies due Lessor, hereunder, shall instead be payable to the proper owner of the interest in proportion to the interest or rights held and the amount paid to Lessor shall be reduced by the amounts paid to the proper owner of the interest. Alton Coal may escrow all amounts subject to protect or contest until such time as the proper interest and proper owner is determined. The unpaid royalty shall there after be paid without interest.

16.05 Costs of Defense. Lessor shall reimburse Alton Coal for any and all expense(s), cost(s), and attorneys' fees incurred in the defense of any civil actions, arising from any title claim or a claim to ownership of the coal or the right to remove, sell or transport the coal, irrespective of the outcome.

16.06 Curative Measures by Alton Coal. Alton Coal may initiate and take whatever steps are necessary to secure or obtain whatever disputed rights or interests that are necessary to provide clear title to Alton Coal, or take whatever curative steps are necessary to remove the encumbrance or lien which restricts its rights granted hereunder. Alton Coal may thereafter seek reimbursement from Lessor for all of its costs and expenses incurred, or retain the interest obtained and reduce the amount of royalties paid to Lessor by the same proportionate amount.

ARTICLE 17 TERMINATION BY ALTON COAL

17.01 Right of Termination-Alton Coal. Alton Coal may terminate this Lease Agreement in its entirety at any time and from time to time during any term or extension of term of this Lease Agreement. In lieu of terminating the Lease Agreement in its entirety, Alton Coal

may abandon, surrender or relinquish any portion of the Leased Premises that are no longer needed by Alton Coal for its operations.

17.02 **Notice to Abandon.** Alton Coal shall give Lessor at least Thirty (30) days written notice of Alton Coal's decision that it intends to abandon, surrender or relinquish any portion or any area within the Leased Premises and that Alton Coal intends not to mine coal from the same area, or that Alton Coal intends to terminate this Lease Agreement in its entirety.

17.03 **Right of Continuation.** In the event that Alton Coal gives notice of its intent to abandon, surrender or relinquish any portion of the Leased Premises, or terminate this Lease Agreement in its entirety, Lessor shall have thirty (30) days following the notice by Alton Coal, to provide to Alton Coal notice in writing that the Lessor desires to continue the Mining Operations if the area is in fact mineable and that Lessor intends to succeed to Alton Coal for the entire permitted area, or for the areas sought to be affected by the notice to abandon, surrender or relinquish if less than the entire permitted area, and that Lessor will provide for the continued mining and reclamation of those areas. In the event that Lessor provides the written notification to Alton Coal, then Alton Coal shall not reclaim the site or abandon the area, subject to compliance with all laws, regulations and permit requirements, at the sole cost to Lessor until such time as Lessor fully transfers the mining permit and operations to Lessor.

17.04 **Effect of Surrender.** Upon any surrender of this Lease Agreement by Alton Coal, Alton Coal covenants and agrees to duly execute and deliver to Lessor, upon request, a Release Agreement, in recordable form, releasing all rights, titles, estates, and interests of Alton Coal in and to any of the Leased Premises. Alton Coal and its respective heirs, successors, assigns, officers, directors, agents, shareholders, and each of them, forever will thereafter be released from any further liability, obligation, covenant or condition to perform under the terms of this Lease Agreement.

ARTICLE 18

TERMINATION FOR DEFAULT

18.01 **Terms of Default.** In the event that Alton Coal fails, at any time or from time to time, to pay all sums due and payable unto Lessor, hereunder, as, when, and in the applicable

amount when due and payable, or if Alton Coal fails to perform any other obligation under the terms of this Lease Agreement, then Lessor may consider Alton Coal as in default under the terms of this Lease Agreement.

18.02 Notice of Default. In the event that Lessor considers Alton Coal as in default, as set out within §18.01, then Lessor shall provide Alton Coal written notice, delivered to the address set out herein, of any such condition of default. The notice of default shall set forth each term, condition or provision constituting default and the specific provision of this Lease Agreement as it applies to the condition of default.

18.03 Cure Period. Alton Coal shall have sixty (60) days from and after the date of service of any notice of default in accordance with the provisions of §18.02 within which to cure and remedy said default. In the event Alton Coal fails to fully cure and remedy said default, Lessor shall and does have the right and option to terminate this Lease Agreement by declaring Alton Coal in breach of the Lease Agreement. Lessor shall exercise its right of termination hereunder by sending written "Notice of Termination" to Alton Coal. Five (5) days following delivery of the written "Notice of Termination" to Alton Coal, without requirement of additional notice or action, Lessor may repossess and retake the Leased Premises and all improvements and appurtenances thereunto belonging, either by act of re-entry and/or other legal action(s), without any liability for so doing.

18.04 Extension of Time to Cure. Notwithstanding the foregoing provisions set out in §18.03, in the event that the condition of default cannot reasonably be cured by Alton Coal within the sixty (60) day period (with the exception of monies due and owing to Lessor), then the time period for Alton Coal to cure the condition of default shall be automatically extended by that amount of time reasonably necessary to cure the condition of default, where no irreparable loss or harm will be suffered by Lessor in the interim. Alton Coal shall have the responsibility to use all good faith efforts to cure the condition of default in the least amount of time necessary to do so.

18.05 Forbearance by Lessor. Provided, any failure to exercise Lessor's right, hereunder, at any time, from time to time, or for any period of time to declare Alton Coal in

default, shall not be deemed a waiver, modification, or abrogation of the provisions of this Article, in whole or in part, and any such failure to exercise said rights shall not preclude or prevent Lessor from enforcing its rights under this Article, at any time or from time to time, thereafter upon any subsequent default.

ARTICLE 19 NOTICES

19.01 Service. All notices where provided for or required anywhere in this Lease Agreement shall be served upon the receiving Party by (a) United States Postal Service, postage pre-paid, certified mail, with return receipt requested, and in addition by (b) first class mail postage pre-paid. Notice shall be delivered to the following addresses:

For Lessor:

**Margaret Moyers
Mark Moyers**
9397 Avanyu Drive
Pleasant Grove, Utah 84062

With a Copy To:

For Lessee:

Alton Coal Development, LLC
6602 Ilex Circle,
Naples, Florida 34109

With a Copy To:

Bennett E. Bayer
106 West Vine Street
Suite 800
Lexington, Kentucky 40507

In the case of change of the mailing address of any Party, the Party so changing its mailing address shall give written notice to the other Party.

ARTICLE 20 CUMULATIVE REMEDIES AND ARBITRATION

20.01 Cumulative Rights. In addition to all other rights and remedies herein provided, the parties shall have the right to pursue any and all rights and remedies they may have under the law of the State of Utah or otherwise concerning any violation and/or default of any term, condition, provision, and agreement hereof.

20.02 **Binding Arbitration.** Disputes between the parties under the terms and conditions of this Lease Agreement shall be submitted to binding arbitration.

20.03 **Selection of Arbiters.** The party seeking arbitration shall provide written notice of its election to submit any dispute(s) to arbitration along with the name of one (1) disinterested person to serve on the arbitration panel. Thereafter, the other party shall nominate one (1) disinterested person to serve on the arbitration panel and Lessor and Alton Coal shall jointly petition the American Arbitration Association to appoint a third-party, uninterested registered Professional Mining Engineer in the State of Utah, to serve as the third and final member of the arbitration panel. The arbitration panel shall be selected and finally appointed within Twenty (20) days of the initiation of arbitration and shall set a date certain within Thirty (30) days of appointment of the third panel member to conduct the arbitration hearing.

20.04 **Conduct of Proceedings.** All arbitration proceedings shall be conducted in accordance with and pursuant to the rules and regulations of the American Arbitration Association; and, the final decision of the arbitration panel shall be rendered within Thirty (30) days of the arbitration hearing; and shall be final and binding upon Lessor and Alton Coal without any appeal, recourse, or right of trial of *de novo*, in any State Court and/or United States District Court.

20.05 **Costs.** The parties shall bear their own costs and attorney's fees incurred in the arbitration.

ARTICLE 21 CONFIDENTIALITY

21.01 **Covenant of Confidentiality.** Lessor agrees that all information about this Lease Agreement; the terms and conditions of this Lease Agreement; the Mining Operations; mining plans; nature of seams or formations; leases; properties; finances; buyers of coal; or price of coal sold (collectively "Information") is proprietary to Alton Coal regarding these coal properties and operations. Lessor acknowledges the sensitive and confidential nature of all Information provided to Lessor by Alton Coal or that Lessor learns and Lessor agrees and covenants with Alton Coal to receive all Information as confidential. In addition, Lessor warrants that it will

maintain the confidentiality of all Information as only between the parties to this agreement and will not disclose, reveal or convey any Information, whether intentionally, unintentionally or accidentally to any person or entity without the express written consent of Alton Coal. Lessor warrants that it will not directly or indirectly disclose any Information, whether in whole or any part of it, to any person or entity, unless that person or entity is a party to this Lease Agreement or, is a party to a separate Confidentiality and Non-disclosure Agreement with Alton Coal, or without the express written consent of Alton Coal.

21.02 No Competition. Lessor warrants that it will not utilize any of the Information for any purpose other than as set out in this agreement. None of the Information shall be used by Lessor in any manner to compete with Alton Coal nor in any way to diminish any rights that Alton Coal shall have, obtain or acquire. Lessor may not directly or indirectly incorporate, use, act upon or in any manner appropriate for its own use or use by others, any Information into any other investment, acquisition, mining or development in competition with Alton Coal, without the express written consent by Alton Coal.

21.03 Information Reviewed By Lessor. Except for the financial and tonnage reports supplied to Lessor, all other Information reviewed by Lessor, remains the property of Alton Coal. Lessor agrees to return to Alton Coal, on demand, any and all Information so furnished, as well as any copies or reproductions of any material produced by or created for or by Lessor. Lessor will not retain any copies or reproductions of any Information.

21.04 Injunctive Relief. In the event of any violation of the provisions of this Article 21, including but not limited to any actual or suspected unauthorized dissemination, release, or use of Information by Lessor, then in addition to all other remedies allowed by law, Alton Coal shall be entitled to obtain injunctive relief as well as monetary damages. Lessor agrees to indemnify Alton Coal for any losses it may suffer from the release or disclosure of Information by any person or entity not a party to this agreement, if such release or disclosure is as a direct or indirect result of any action, inaction or omission by Lessor. The provisions of indemnification shall survive any expiration or termination of this Lease Agreement.

ARTICLE 22
MISCELLANEOUS

22.01 **Choice of Law.** This Lease Agreement, in all respects, shall be governed, construed, and enforced in accordance with the substantive laws of the State of Utah.

22.02 **Time is of the Essence.** Time is of the essence of each and every term of this Lease Agreement and each and every performance required hereby.

22.03 **Merger.** This Lease Agreement constitutes the entire, integrated agreement by and between the Parties hereto with respect to the subject matters hereof and supersedes all oral and written, prior and contemporaneous negotiations, representations, agreements, and undertakings of the Parties hereto relating to the subject matters hereof.

22.04 **Modifications.** This Lease Agreement shall not be modified, altered, supplemented or otherwise amended, in whole or in part, unless said modification, alteration, supplement, and/or other amendment is in writing and mutually executed by the Parties hereto. No evidence of any such modification, alteration, supplement, or amendment of this Lease Agreement shall be received in any controversy arising out of or pursuant to the same unless it is in writing and executed as specified.

22.05 **Severance for Partial Invalidity.** In the event any provision of this Lease Agreement shall be adjudged invalid by a Court having competent jurisdiction over the Parties hereto, such invalid provision shall be deemed deleted from this Lease Agreement and this Lease Agreement shall be construed as to give full force and effect to the remaining provisions hereof.

22.06 **Recording.** Alton Coal may record this Lease Agreement, a Short Form Lease, or a memorandum of the same, without the prior written consent of Lessor first had and obtained. Upon the expiration, cancellation, or earlier termination of this Lease Agreement and in the event this Lease Agreement, or a memorandum hereof, have been previously recorded, then upon Lessor's request Alton Coal shall provide Lessor a recordable memorandum, in a form prescribed by Lessor, witnessing the expiration, cancellation, or earlier termination of this Lease Agreement.

22.07 Survival. All representations, warranties, obligations, agreements, stipulations, and covenants made herein or in connection herewith, notwithstanding any provisions of this Lease Agreement that may appear to the contrary, shall survive, to their full extent, the expiration, cancellation, or earlier termination of this Lease Agreement for whatever reason. All such representations, warranties, obligations, agreements, stipulations, and covenants shall remain fully enforceable until such time as they have been fully kept, paid, honored, observed, and/or performed subject only to any applicable statute(s) of limitation.

22.08 Relationship of Parties. The relationship between the Parties hereto is solely that of landlord and tenant, and such relationship shall not be interpreted or established as that of partners, joint venturers, cotenants, principal, and agent, or any relationship other than that of landlord and tenant. Lessor's right to review any of Alton Coal's mining projections, plans, maps, and other data, and Lessor's right to inspect Alton Coal's records or mines shall not be deemed, treated, or construed as anything more than Lessor's right to review the same. Lessor has no right of management over any of the Mining Operations conducted by Alton Coal. Nothing herein provided shall be construed as creating an employment relationship or a relationship other than that of landlord and tenant between Lessor and Alton Coal.

22.09 Captions and Pronouns. The captions appearing in this Lease Agreement are for identification purposes only and shall not be construed as affecting in any way the meaning of the provisions hereof. Individual Lessors may also be referred to as "it" or similar terms and the plural and singular shall be understood to be one and the same where applicable in reference to the Lessor or Lessors.

22.10 Inure to and Bind the Parties. This Lease Agreement, and the conditions, provisions, covenants, acknowledgments, stipulations, options, and agreements contained herein, shall inure to the benefit of and be of full and binding effect upon the Parties hereto and their respective successors, assigns, beneficiaries and transferees. Nothing set forth in this Lease Agreement confers or is intended to confer upon any person or entity other than the Parties hereto, and their respective successors, assigns, and transferees, any benefits, rights, or remedies under or by reason of this Lease Agreement, excepting solely as set forth herein.

22.11 **Additional Documents.** The Lessor agrees to execute any documents or instruments necessary to fully effectuate the purpose of this Lease Agreement and to facilitate the Mining Operations or as a curative measure, including but not limited to any amendments, permit applications, licenses, easements or authorizations as required by Alton Coal, without any further payment or consideration.

IN TESTIMONY WHEREOF, the Parties hereto have hereunto subscribed this Lease Agreement, these presents having been executed in multiple counterparts, each of which shall be treated and considered an original, this the date and year first above written.

{The Remainder of this Page is Purposefully Blank}

{Execution Appears on the Following Page}

LESSOR: MARGARET MOYERS and MARK MOYERS

Date: _____

Margaret Moyers
MARGARET MOYERS

Date: _____

Mark Moyers
MARK MOYERS

LESSEE: ALTON COAL DEVELOPMENT, LLC

Date: 6-26-08

BY: Chris Huber

ITS: Manager

NOTARY ACKNOWLEDGMENTS

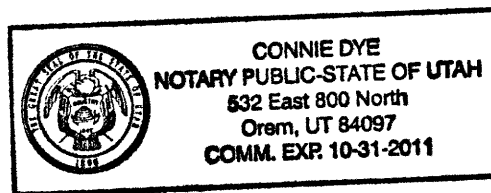
STATE OF UTAH }
COUNTY OF Utah }

The foregoing Lease Agreement was subscribed, sworn to, and acknowledged before me by Margaret Moyers as her free and voluntary act, on this 24 day of June, 2008.

Connie Dye
NOTARY PUBLIC

My Commission Expires: 10-31-2011

STATE OF UTAH }
COUNTY OF Utah }

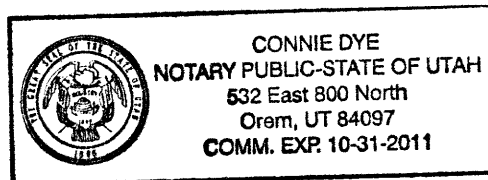


The foregoing Lease Agreement was subscribed, sworn to, and acknowledged before me by Mark Moyers as his free and voluntary act, on this 24 day of June, 2008.

Connie Dye
NOTARY PUBLIC

My Commission Expires: 10-31-2001

STATE OF Utah }
COUNTY OF Iron }



The foregoing Lease Agreement was subscribed, sworn to, and acknowledged before me by Chris McCourt acting on behalf of, under authority by and as the Manager of ALTON COAL DEVELOPMENT, LLC on this 26 day of June, 2008.

J. Stucki
NOTARY PUBLIC

My Commission Expires: 5-25-09

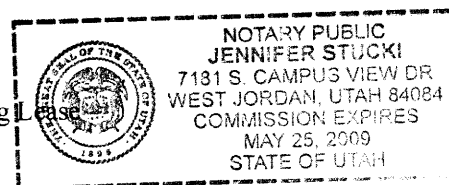


EXHIBIT 1
Description of Tracts

All that certain real property situated in Kane County, Utah, more particularly described as follows:

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M Section 30:
All of Sectional Lot #1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$); NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$; ALSO:
BEGINNING 3.50 chains West of the East Quarter corner of Said Section 30, and running South 34 ° 34' West 22.64 chains to the 1/16 section line; thence West 2.64 chains to the Southwest corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Said Section 30; thence North 40.00 chains; thence East 20.00 chains; thence South 14.69 chains; thence southwesterly to the point of beginning

...containing 217.64 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M Section 29:
BEGINNING at the Northwest corner of Said Section 29, and running thence South 34.69 chains; thence North 33° 22' East 35.50 chains; thence North 40° West 0.58 chains; thence North 37° 30' East 12.30 chains; thence West 22.23 chains to the point of beginning.

...containing 36.04 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 19: SW $\frac{1}{4}$ SE $\frac{1}{4}$

...containing 40.00 acres, more or less.

DESCRIPTION: TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M
Section 20: S $\frac{1}{2}$ SW $\frac{1}{4}$

...containing 79.00 acres, more or less.

COAL OWNERSHIP**INTEREST**

C. Burton Pugh

40.50%

533 N 650 E

Lindon, Utah 84042-1567

Verna H. Pugh

37.00%

116 South 100 West

Kanab, UT 84741

Margaret Moyers

22.50%

Kanab, Utah

SURFACE OWNERSHIP**INTEREST**

C. Burton Pugh

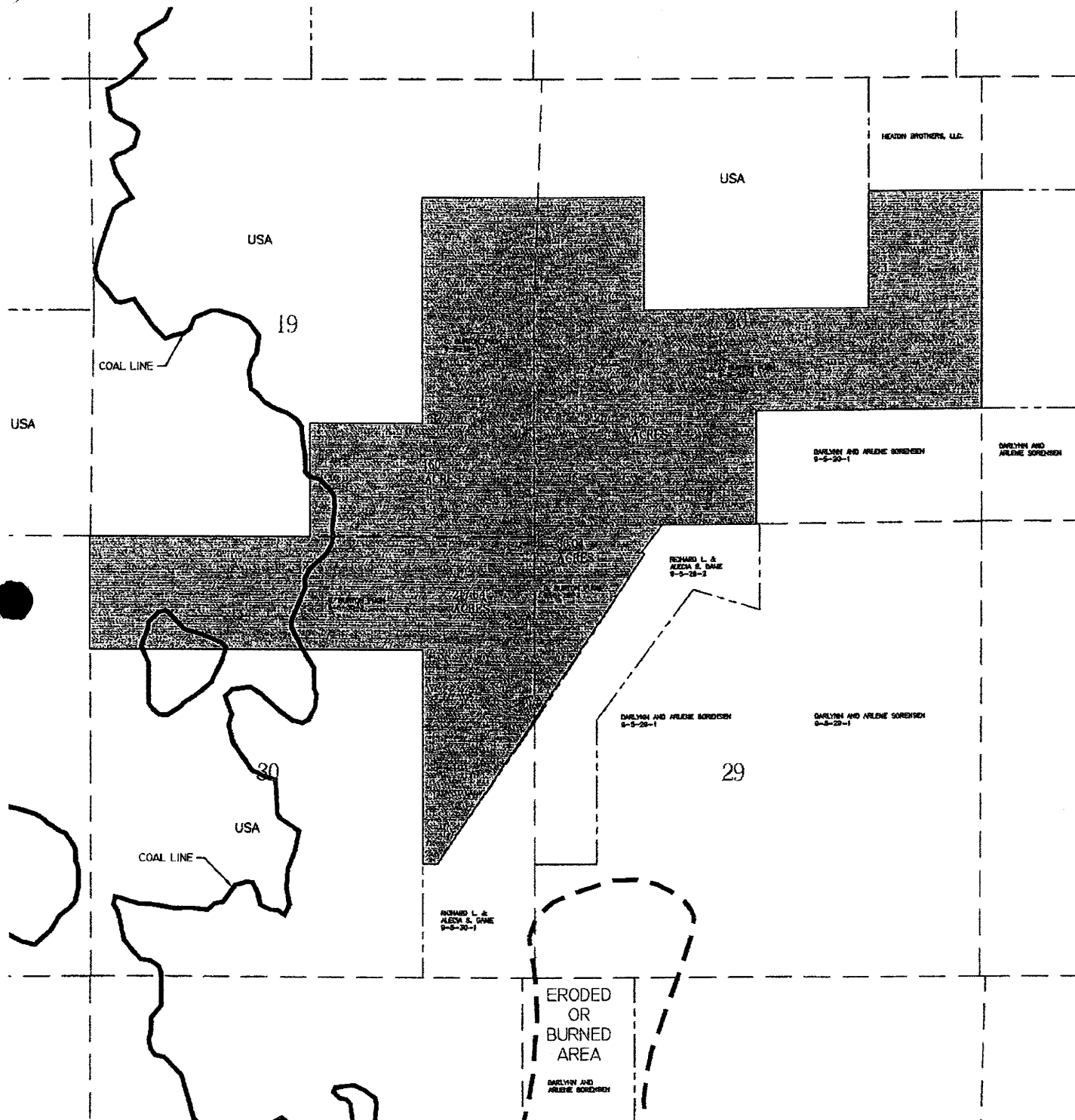
100%

533 N 650 E

Lindon, Utah 84042-1567

EXHIBIT 2
Common Mining Operations

Exhibit 2



**MEMORANDUM OF
COAL MINING LEASE
between
MARGARET MOYERS
MARK MOYERS
and
ALTON COAL DEVELOPMENT, LLC**

On the ____ day of **June, 2008**, **Margaret Moyers**, a Utah resident, and her husband **Mark Moyers** whose local mailing address is 9397 Avanyu Drive Pleasant Grove, Utah 84062, as "*Lessor*" entered into a Coal Mining Lease with **Alton Coal Development, LLC**, a Nevada Limited Liability Company, with a principal address of 6602 Ilex Circle, Naples, Florida 34109, as "*Lessee*."

The Lessor and the Lessee agree that this Memorandum of Coal Mining Lease is an acknowledgment by the Lessor of the existence of the Coal Mining Lease and that all of the Lessor's rights to the described estate ("*Leased Premises*") are subject to the terms and conditions of the Coal Mining Lease as conveyed to Lessee.

More particular inquiry must be made of the Coal Mining Lease for the actual terms and conditions of the Coal Mining Lease contained therein and reference is made to the Coal Mining Lease for the specific terms and conditions as agreed to between the parties.

The Leased Premises described within the Coal Mining Lease are as follows:

All that certain real property situated in Kane County, Utah, more particularly described as follows:

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M Section 30:

All of Sectional Lot #1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$); NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$; ALSO: BEGINNING 3.50 chains West of the East Quarter corner of Said Section 30, and running South 34 ° 34' West 22.64 chains to the 1/16 section line; thence West 2.64 chains to the Southwest corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Said Section 30; thence North 40.00 chains; thence East 20.00 chains; thence South 14.69 chains; thence southwesterly to the point of beginning

...containing 217.64 acres, more or less; and

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M Section 29:

BEGINNING at the Northwest corner of Said Section 29, and running thence South 34.69 chains; thence North 33° 22' East 35.50 chains; thence North 40° West 0.58

chains; thence North 37° 30' East 12.30 chains; thence West 22.23 chains to the point of beginning.

...containing 36.04 acres, more or less; and

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 19: SW $\frac{1}{4}$ SE $\frac{1}{4}$

...containing 40.00 acres, more or less; and

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 20: S $\frac{1}{2}$ SW $\frac{1}{4}$

...containing 79.00 acres, more or less.

The term of the leasehold as set out within the Coal Mining Lease begins with an effective date of the 1st day of January, 2008 and does not expire until the latest of Ten (10) years from that date, or until the complete removal of the mineable and merchantable coal by Lessee and may be extended or renewed by other terms and conditions contained within the Coal Mining Lease.

This Memorandum of Coal Mining Lease does not limit nor expand the rights specified within the Coal Mining Lease, nor is it intended to contradict any specific provision contained within the Coal Mining Lease.

The Parties have subscribed to this Memorandum of Coal Mining Lease Agreement, to provide for and allow for the recordation of same as reference to the Coal Mining Lease entered into between the parties and to have all of the right, title and interest of the Lessor in the Leased Premises subject to the Coal Mining Lease Agreement, as if the Coal Mining Lease Agreement had been recorded in its entirety.

{Execution Appears on the Following Page}

{The Remainder of this Page Is Purposefully Left Blank}

LESSOR: MARGARET MOYERS and MARK MOYERS

Date: 7-15-08

Margaret Moyers
MARGARET MOYERS

Date: 7-15-08

Mark Moyers
MARK MOYERS

LESSEE: ALTON COAL DEVELOPMENT, LLC

Date: 6-26-08

BY: Ken Platter

ITS: Manger

NOTARY ACKNOWLEDGMENTS

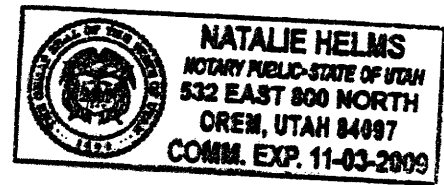
STATE OF UTAH }
COUNTY OF Utah }

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to,
and acknowledged before me by Margaret Moyers as her free and voluntary act, on this 15th
day of July, 2008.

Natalie Helms
NOTARY PUBLIC

My Commission Expires: 11-03-2009

Residing At: Orem, UT



STATE OF UTAH }
COUNTY OF Utah }

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to,
and acknowledged before me by Mark Moyers as his free and voluntary act, on this 15th day
of July, 2008.

Natalie Helms
NOTARY PUBLIC

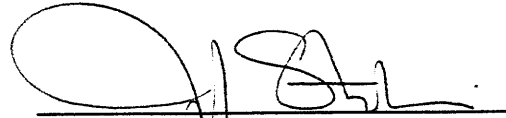
My Commission Expires: 11-03-2009

Residing At: Orem, UT



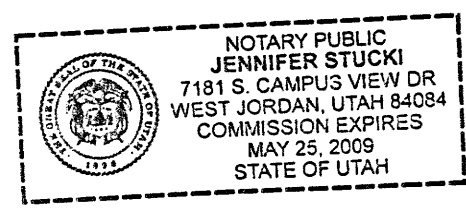
STATE OF Utah }
COUNTY OF Iron }

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to,
and acknowledged before me by Chris McLourt acting on behalf
of, under authority by and as the Manager of ALTON COAL DEVELOPMENT,
LLC on this 26 day of
June, 2008.


NOTARY PUBLIC

My Commission Expires: 5.25.09

Residing At: Cedar City



07/21/2008 02:36:53 PM B: 0353 P: 0648

Memorandum PAGE 1 / 5
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 24.00 BY CHRIS MCCOURT

Chris McCourt

463 N. 100 W., Suite 1
Boulder City, UT 84720

7-5-30-1

7-5-30-2

7-5-27-3

7-5-19-1 Part of

7-5-25-2 Part of

MEMORANDUM OF
COAL MINING LEASE

between

MARGARET MOYERS
MARK MOYERS

and

ALTON COAL DEVELOPMENT, LLC

On the ____ day of June, 2008, Margaret Moyers, a Utah resident, and her husband **Mark Moyers** whose local mailing address is 9397 Avanyu Drive Pleasant Grove, Utah 84062, as "Lessor" entered into a Coal Mining Lease with **Alton Coal Development, LLC**, a Nevada Limited Liability Company, with a principal address of 6602 Ilex Circle, Naples, Florida 34109, as "Lessee."

The Lessor and the Lessee agree that this Memorandum of Coal Mining Lease is an acknowledgment by the Lessor of the existence of the Coal Mining Lease and that all of the Lessor's rights to the described estate ("*Leased Premises*") are subject to the terms and conditions of the Coal Mining Lease as conveyed to Lessee.

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...containing 217.64 acres, more or less; and

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chains; thence North 37° 30' East 12.30 chains; thence West 22.23 chains to the point of beginning.

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TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 19: SW $\frac{1}{4}$ SE $\frac{1}{4}$

...containing 40.00 acres, more or less; and

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 20: S $\frac{1}{2}$ SW $\frac{1}{4}$

...containing 79.00 acres, more or less.

The term of the leasehold as set out within the Coal Mining Lease begins with an effective date of the 1st day of January, 2008 and does not expire until the latest of Ten (10) years from that date, or until the complete removal of the mineable and merchantable coal by Lessee and may be extended or renewed by other terms and conditions contained within the Coal Mining Lease.

This Memorandum of Coal Mining Lease does not limit nor expand the rights specified within the Coal Mining Lease, nor is it intended to contradict any specific provision contained within the Coal Mining Lease.

The Parties have subscribed to this Memorandum of Coal Mining Lease Agreement, to provide for and allow for the recordation of same as reference to the Coal Mining Lease entered into between the parties and to have all of the right, title and interest of the Lessor in the Leased Premises subject to the Coal Mining Lease Agreement, as if the Coal Mining Lease Agreement had been recorded in its entirety.

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Page 2 of Margaret Moyers Coal Mining Lease

ENTRY NO. 00140203

07/21/2008 02:36:53 PM B: 0353 P: 0649

Memorandum PAGE 2 / 5

VERJEAN CARUSO, KANE COUNTY RECORDER

FEE \$ 24.00 BY CHRIS MCCOURT



LESSOR: MARGARET MOYERS and MARK MOYERS

Date: 7-15-08

Margaret Moyers
MARGARET MOYERS

Date: 7-15-08

Mark Moyers
MARK MOYERS

LESSEE: ALTON COAL DEVELOPMENT, LLC

Date: 6-26-08

BY: Chris Flute

ITS: Manger

ENTRY NO. 00140203

07/21/2008 02:36:53 PM B: 0353 P: 0650

Memorandum PAGE 3 / 5

VERJEAN CARUSO, KANE COUNTY RECORDER

FEE \$ 24.00 BY CHRIS MCCOURT



NOTARY ACKNOWLEDGMENTS

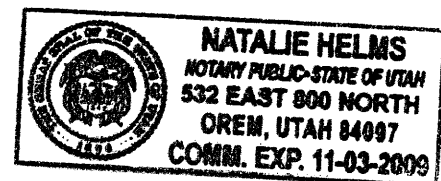
STATE OF UTAH }
COUNTY OF Utah }

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to, and acknowledged before me by Margaret Moyers as her free and voluntary act, on this 15th day of July, 2008.

Natalie Helms
NOTARY PUBLIC

My Commission Expires: 11-03-2009

Residing At: Orem, UT



STATE OF UTAH }
COUNTY OF Utah }

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to, and acknowledged before me by Mark Moyers as his free and voluntary act, on this 15th day of July, 2008.

Natalie Helms
NOTARY PUBLIC

My Commission Expires: 11-03-2009

Residing At: Orem, UT



ENTRY NO. 00140203

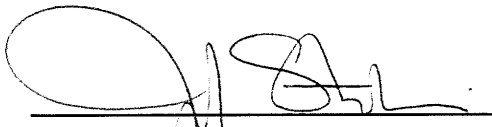
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Memorandum PAGE 4 / 5
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 24.00 BY CHRIS MCCOURT



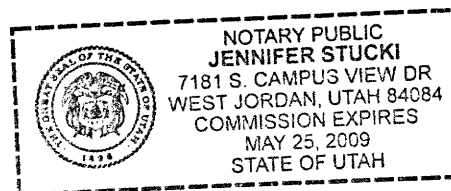
STATE OF Utah }
COUNTY OF Iron }

The foregoing Memorandum of Coal Mining Lease Agreement was subscribed, sworn to, and acknowledged before me by Chris McCourt acting on behalf of, under authority by and as the Manager of ALTON COAL DEVELOPMENT, LLC on this 26 day of June, 2008.


NOTARY PUBLIC

My Commission Expires: 5.25.09

Residing At: Cedar City



Page 5 of Margaret Moyers Coal Mining Lease

ENTRY NO. 00140203

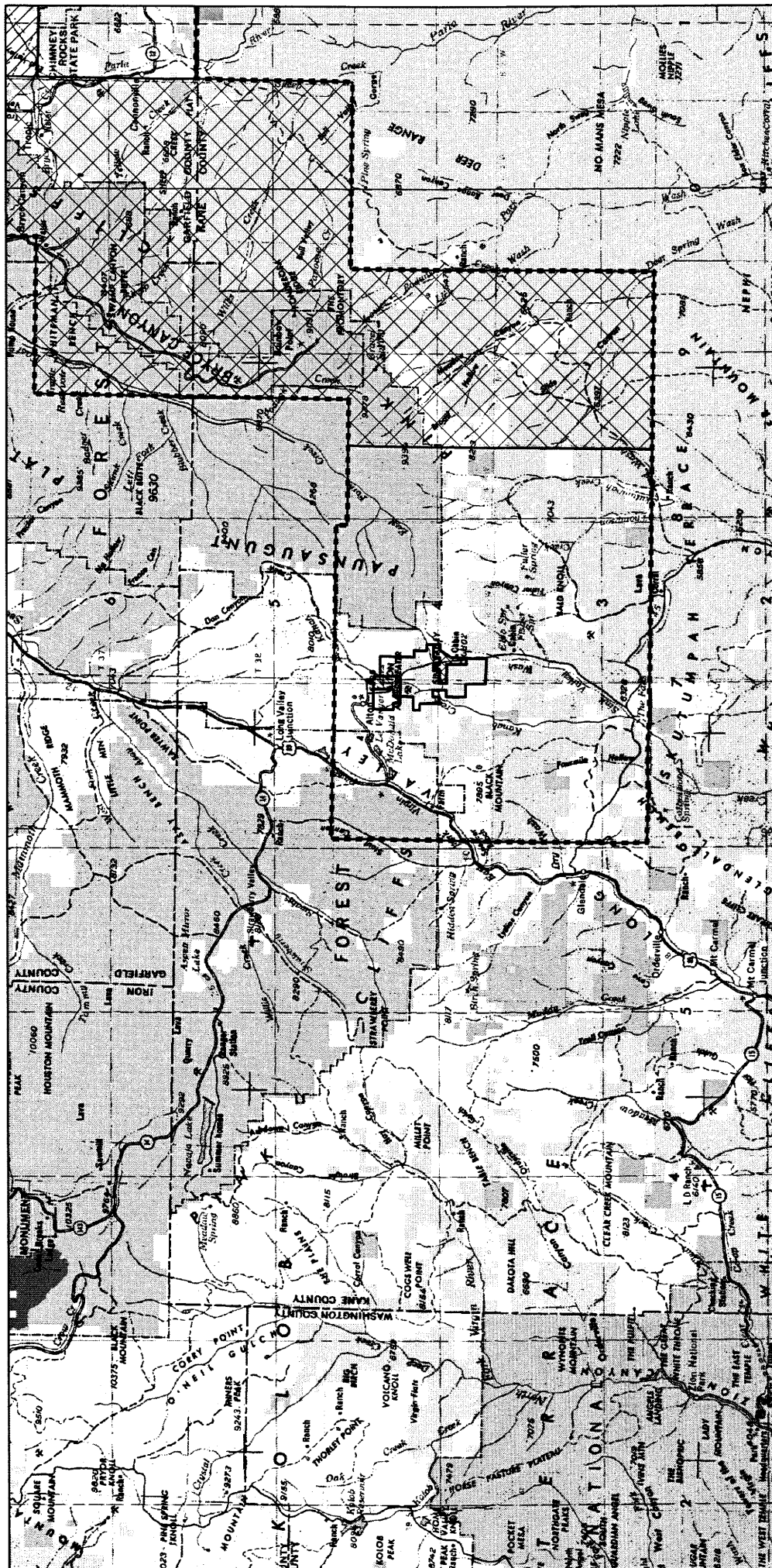
07/21/2008 02:36:53 PM B: 0353 P: 0652

Memorandum PAGE 5 / 5
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 24.00 BY CHRIS MCCOURT



R645-301-121.200, The Applicant must include on the land-ownership map (dated November 30, 2006 and located at the end of Chapter 1, Appendix 1-3, Exhibit 3) the color-key for National Forest, Private, and National Park lands.

An updated map is provided to replace the map dated November 30, 2006 and located at the end of Chapter 1, Appendix 1-3, Exhibit 3.



Base map taken from Cedar City, UT
1 x 2 degree series
USGS topographic map.

State of Utah Land Status

- State Trust Land; State Sovereign
- Land: Other State Land
- US Forest Service (USFS)
- USFS Wilderness Area
- Bureau of Land Management (BLM)
- National Park Service (NPS)
- Private
- State Parks and Recreation; State Wildlife Reserve/Management Area

Petition Area

- Coal Hollow Mine (Permit # C025/005)
- Potential Fee
- Coal Mine
- Proposed Action LBA
- Open for leasing
- Unsuitable for surface mining
- Unsuitable for surface mining and surface impacts from subsurface mining

0 1 2 3 4 5 Miles